



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Mr S Denton

AND

Respondent
Babcock International Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD REMOTELY
By CVP Telephone

ON

25 April 2024

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimant: In person

For the Respondent: Ms L Shaw, Solicitor, Make UK

JUDGMENT ON TWO APPLICATIONS

1. The claimant's application to amend the originating application is dismissed as it is now withdrawn by the claimant; and
2. The claimant's application for reconsideration is also refused.

REASONS

1. The Background to these two Applications:
2. The claimant presented these proceedings on 1 November 2023. His claim as presented consisted of two claims, namely for unfair dismissal and for disability discrimination. The grounds in support of these claims were succinct. The dates on the ACAS Early Conciliation certificate were such that any claims arising before 27 July 2023 would already be out of time, and any claims presented after 30 November 2023 would also be presented out of time. The claimant did not have two years' continuous service and by letter dated 24 November 2023 the tribunal office notified the claimant that his claim was likely to be struck out because the tribunal did not have jurisdiction to hear it. The claimant was afforded the opportunity to object to this course of action and did not do so. By judgment dated 1 February 2024 ("the Judgment") Employment Judge Ferguson dismissed the claimant's unfair dismissal claim because the claimant lacked sufficient continuity

- of service for the tribunal to have jurisdiction to hear that claim. That Judgment was sent to the parties on 7 February 2024.
3. The claimant has now made two applications. By letter dated 17 March 2024 the claimant has made an application to amend his proceedings to introduce a variety of new claims. In addition, by a different letter dated 17 March 2024 the claimant has applied for reconsideration of the Judgment. I deal with each of these two applications in turn.
 4. **Application to Amend**
 5. The claimant's application originally sought to include the following additional claims: indirect discrimination; discrimination arising from disability; victimisation; sexual harassment; whistleblowing; breach of contract; and constructive unfair dismissal.
 6. At a case management preliminary hearing before me today, and on being reassured that his claims for discriminatory (constructive) dismissal, direct discrimination, and harassment (as set out in more detail in the case management order today's date) will proceed to hearing to be determined by an employment tribunal, the claimant decided to withdraw his application to amend his claim to include these new claims. The application is therefore dismissed on withdrawal by the claimant, and these new claims are not added. The extent of the claimant's claims are those set out in the case management order of today's date.
 7. **Application for Reconsideration**
 8. The claimant has also applied for a reconsideration of the judgment dated 1 February 2024 which was sent to the parties on 7 February 2024 ("the Judgment"). The grounds are set out in his letter dated 17 March 2024. That letter was received at the tribunal office on 17 March 2024.
 9. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received at least three weeks outside the relevant time limit, and it was not accompanied by any explanation or application for an extension of time.
 10. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
 11. The grounds relied upon by the claimant are these, namely that his unfair dismissal claim should not have been struck out because he has the protected characteristic of disability which does not require two years' service for the Tribunal to have jurisdiction.
 12. The claimant already has extant claims for direct disability discrimination and for harassment on the grounds of disability, which include a claim of discriminatory (constructive) dismissal. As confirmed in the case management order of today's date, these will proceed to be determined at a full hearing. The Tribunal hearing the claim will therefore decide in due course whether or not the claimant's resignation was a constructive dismissal, and if so whether it was discriminatory. However, despite the strike out warning letter the claimant has provided no explanation as to whether there is any "automatically unfair" reason for his dismissal such as to circumvent the decision that his lack of two years' service means that this Tribunal does not have jurisdiction to hear a claim for unfair dismissal. In addition, this application for reconsideration is out of time.

13. For all of these reasons I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge N J Roper
Dated: 25 April 2024

Judgment sent to Parties on
28 May 2024 By Mr J McCormick

For the Tribunal Office