



EMPLOYMENT TRIBUNALS

Claimant: Mr K D Raza

Respondent: APL Security Group Limited

JUDGMENT - RECONSIDERATION

1. I have undertaken preliminary consideration of the claimant's application for reconsideration of the Judgment dismissing his claim on his withdrawal, sent to the parties on 26 July 2024.
2. The grounds for the application are in a letter from the claimant dated 31 July 2024.

Relevant Background

3. The claimant wrote to the Tribunal by email dated 1` June 2024, withdrawing his claim. That withdrawal was considered by a legal officer and, consistent with the terms of the claimant's email, judgment dismissing the claim was issued. That was sent to the parties on 24 June 2024.
4. By email dated 3 July 2024, the claimant wrote to the Tribunal to ask that his claim be reopened. I treated that as an application under Rule 10A(2) of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 ("Regulations") and considered afresh the decision to dismiss the claim on withdrawal by the claimant.
5. Having considered the decision afresh I decided to issue judgment dismissing the claim following its withdrawal by the claimant. That Judgment was sent to the parties on 26 July 2024

The Law - reconsideration

6. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is

final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70 of the 2013 Rules of Procedure (Rules)).

7. The importance of finality was confirmed by the Court of Appeal in **Ministry of Justice v Burton and anor [2016] EWCA Civ 714** in July 2016 where Elias LJ said that:

“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily;

8. Rule 72(1) of the Rules empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

9. In common with all powers under the Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective in rule 2, namely, to deal with cases fairly and justly. Various appellate authorities make clear that achieving finality in litigation is part of a fair and just adjudication.

My decision

10. I have decided that it is not in the interests of justice to allow the claimant's reconsideration application. These are my reasons:-

- a. I have reviewed again the terms of the claimant's email of 1 June 2024. That email contains a clear, unambiguous and unequivocal withdrawal.
- b. There is no obligation on a legal officer or an employment judge to make enquiries of a claimant who has written to the Tribunal withdrawing their claim on such clear terms.
- c. In the email dated 1 June 2024, the claimant provided some background to his decision to withdraw the claim, noting his own ill health and the ill health of his wife. These details provide some explanation for the claimant's decision to withdraw his claim but do not make the withdrawal unclear or ambiguous.
- d. In his reconsideration application the claimant expresses disappointment at the way that his claim was being dealt with before withdrawing the claim. That is not a reason to reconsider the judgment dismissing this claim.
- e. The claimant also notes his hope that withdrawing his claim would lead to an amicable solution with the respondent (which may be his current employer). Again that it not a reason to reconsider the judgment dismissing this claim.

Conclusion

Having considered all the points made by the claimant I am satisfied that there is no reasonable prospect of the original decision to dismiss the claim being varied or revoked. The application for reconsideration is refused.

Employment Judge Leach
DATE: 6 August 2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON

8 August 2024

FOR THE TRIBUNAL OFFICE