



EMPLOYMENT TRIBUNALS

Claimant: Ms Y Liang

Respondent: Casa Design Group Ltd

UPON APPLICATION by e-mail dated 2 August 2024 to reconsider the judgment in this case under rule 71 of the Employment Tribunal Rules of Procedure 2013.

JUDGMENT

The respondent's application for reconsideration is refused.

REASONS

The Application:

1 On 22 July 2024, I delivered an oral judgment in this case. The written judgment was sent to the parties on 29 July 2024, together with written reasons, which, by that time, had been requested by the claimant.

2 On 2 August 2024, the claimant sent two e-mails to the Tribunal requesting reconsideration of that decision. The e-mails make reference to the evidence that was before the Tribunal during the hearing and ask me to draw different inferences from those which I drew during the hearing. One of the e-mails alleges that the respondents' witness statements were false but provides no particulars setting out what is said to be false, how this was discovered, in what way the witness statements were false or why that should have led me to draw different inferences from those which I drew.

3 Further, the claimant says she could have provided further evidence had she been present at the hearing. However, I clearly explained to the claimant at the start of the hearing why she could not take part in the hearing (namely that she was dialling in on CVP using a VPN from a foreign jurisdiction that does not allow the use of external websites (therefore dialling in unlawfully)). I also gave the claimant the opportunity to discuss that with her lay representative, explained the consequences should the hearing proceed without her (including her not being able to provide any further information than that which was contained in the papers) and gave her the opportunity to make an application to postpone the hearing. On returning from the break I had allowed for the claimant to discuss those

issues with her lay representative, I was told, unequivocally, that the claimant understood the potential disadvantages for her case but wanted the hearing to proceed.

The Law:

4 Rule 70 of the Employment Tribunal Rules (“the Rules”) states:

A Tribunal may, either on its own initiative... or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so...

5 Rule 71 of the Rules states:

...an application for reconsideration shall be presented in writing... within 14 days of the date on which the written record, or other written communication of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

6. Rule 72(1) of the Rules states:

An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal...

Conclusion:

7. The claimant’s e-mails seek to reargue the evidence that was before the Tribunal, claim further evidence could have been adduced by the claimant had she been able to participate in the hearing and allege, with no specifics, that the claimant has since found out the respondents’ witness statements were false.

8. The claimant was absent from the hearing but represented by a lay representative. The claimant was aware of the reason she could not partake in the hearing, was aware of the consequences of not being present, was given time to consider her position, was given the opportunity to request a postponement, but insisted she wanted the hearing to proceed.

9. I am satisfied that the inferences I drew at the hearing were legitimate inferences open for me to draw on the evidence before me. In the e-mails asking for reconsideration, the claimant referred me to specific pages of a bundle that were before me during the hearing. In my judgment, those pages do not provide evidence that there was a contractual entitlement to overtime payments in lieu of “compensatory” time off, as claimed by the claimant, even on termination of employment.

10. The allegation that the claimant has now discovered the respondents’ witness statements were false is not supported by evidence, an explanation how the alleged falsity was discovered, the way(s) in which the statements were false, nor why any inaccuracies in the respondents’ witness statements should lead me to draw different inferences from those which I drew during the hearing. My decision was largely based on the wording of the contract of employment, which was also contained within the bundle.

11. I am satisfied that my findings of fact, the inferences I drew, my application of the law and the conclusions I reached are sound. In my judgment, there is no reasonable prospect of the original decision being varied or revoked. Further, allowing the application for reconsideration would be against the principle of finality in litigation. Therefore, reconsideration is not necessary in the interests of justice.

12. The claimant's application for reconsideration is refused and the parties should be notified accordingly.

**Employment Judge Yale
Dated: 9 August 2024**