EMPLOYMENT TRIBUNALS

Claimant: **Mr B. Hamilton**

Respondent: **Hydro Cleansing Limited**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Heard in Chambers at: **London South ET** **On:** **13 June 2024**

Before: **Employment Judge G. King**

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the Tribunal is that the Claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The Claimant has applied for a reconsideration of the Judgment dated 7 March 2024 which was sent to the parties on 8 May 2024 ("the Judgment"). The grounds on which reconsideration is sought are set out in the Claimant's email dated 15 May 2024.

2. This has been a remote hearing on the papers. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents that I was referred are contained in the Claimant's representative's email of 19 December 2022. The order made is described at the end of these reasons.

3. 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 within the relevant time limit.

4. Under Rule 5 the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired.

5. 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.

Background

6. By his ET1 presented on 15 October 2024, the Claimant brought claims that the Respondent had failed to provide him with itemised payslips; that the Respondent had failed to provide him with a P45; and that the Respondent had committed a data breach by sending all his payslips to ACAS without the Claimant's consent.

7. At the hearing on 7 March 2024, the Claimant was successful in his claim in relation to the Respondent's failure to provide itemised payslips. His claim in relation to the Respondent's failure to provide a P45 was not successful. The claim in relation to an alleged data breach was dismissed previously as the Employment Tribunal does not have jurisdiction to hear such a claim.

Application for Reconsideration

8. The grounds relied upon by the Claimant are as below, copied from the Claimant's email:

> *I am writing to respectfully appeal the Judgment rendered in the above-mentioned case on 07/03/24.*
>
> *I Brian Hamilton believe the Judgment you had made is unjust for the following reason. It was my understanding that the Employment Tribunal had the powers to order the losing party to do certain things, like to pay the Claimant compensation or issue punishment for breach of the employment law done by the employer. This is why I decided to make an application with the Tribunal Court.*
>
> *The court Judgement sent on the 08/05/24 doesn't mention anything relating to any compensation or what punishment the Respondent*

will have for breaching the employment rights act 1996, as confirmed in section 4 of the court Judgement.

In light of the above, I respectfully request that the court reconsider its decision and grant an appeal hearing to thoroughly review the case. I am confident that upon further examination, the court will find merit in my appeal.

Thank you for your attention to this matter. I am willing to provide any additional information or documentation that may assist in the review process.

9. 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.

10. The matters raised by the Claimant were considered in the light of all of the evidence presented to the Tribunal before it reached its decision.

The Law Relevant to the Claim

Failure to provide Payslips

11. All employees have a right to be given written payslips, which comes from section 8 of the Employment Rights Act 1996 ("ERA"). This states:

"8 Itemised pay statement.
(1) A worker has the right to be given by his employer, at or before the time at which any payment of wages or salary is made to him, a written itemised pay statement."

12. An employee can make a complaint to an Employment Tribunal if they believe that their right to receive a payslip under this section has been breached. A right to make a reference to the Tribunal comes from s11 ERA, and the determination of any reference to the Tribunal is governed by s12 ERA which states:

"12 Determination of references.
(3) Where on a reference under section 11 an Employment Tribunal finds—
(a) that an employer has failed to give a worker any pay statement in accordance with section 8, or…
(4) Where on a reference in the case of which subsection (3) applies the Tribunal further finds that any unnotified deductions have been made from the pay of the worker during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the contract

of employment), the Tribunal may order the employer to pay the worker a sum not exceeding the aggregate of the unnotified deductions so made."

Deliberation

13. The ground relied upon by the Claimant is that he believes he should be compensated and/or the Respondent should be "punished".

14. The effect of s.8 and s.12 Employment Rights Act 1996 is that, if no pay statements were given to the Claimant, the Claimant is entitled to a declaration to that effect. Further, if there were then unnotified deductions from that pay, the Claimant ***may*** be entitled to an award not exceeding the total amount of the unnotified deductions.

15. The Claimant's claim, however, has never been pleaded that there were any unlawful deductions from his pay. This was not a claim in his ET1 nor was it raised at the hearing on 7 March 2024. The evidence of the payslips themselves showed that the Claimant was correctly paid. The only deductions were those for tax and National Insurance, which are deductions authorised by statute and therefore not unauthorised deductions, pursuant to s.14 Employment Rights Act 1996.

16. It was explained at the beginning of the hearing on 7 March 2024 that there was no monetary value in the Claimant's claim. This was further emphasised in the decision made regarding an application by the Respondent. The Respondent had applied for strike out of the Claimant's claim on the grounds that the Claimant had failed to provide a Schedule of Loss. One of the reasons why the Respondent's application for strike out was refused was that the Claimant had not suffered a financial loss and so would have nothing to put in a Schedule of Loss.

17. The Tribunal has no power to "punish" employers for failure to provide itemised payslips. The Tribunal does not "fine" employers, nor does it award arbitrary sums of money to successful Claimants.

18. In respect of successful claims, the Tribunal can only award compensation if the law provides for it. For a claim of failure to provide itemised payslips where there are no unlawful deductions, the only remedy available to a Claimant is a published declaration regarding the Respondent's failure. This is the remedy that the Tribunal awarded in the Judgment dated 7 March 2024.

19. Accordingly, the application for reconsideration pursuant to Rule 72(1) is refused because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge King

Date: 13 June 2024

Reasons sent to parties on:
Date: 2nd July 2024

For the Tribunal Office