



EMPLOYMENT TRIBUNALS

Claimant: Mr D Holden

Respondent: Premier Support Services Limited

JUDGMENT ON RECONSIDERATION

The claimant's application dated 12 August 2024 for reconsideration of the Judgment dated 19 July 2024 and sent to the parties on 1 August 2024 fails. The original Judgment is confirmed.

REASONS

1. By an email dated 12 August 2024, the claimant made an application for reconsideration of the Judgment dated 19 July 2024, which had been sent to the parties on 1 August 2024.

The rules on reconsideration

2. Rule 70 of the Employment Tribunal Rules of Procedure 2013 says:
“A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.”

3. The requirement that a judgment may only be reconsidered where reconsideration is necessary in the interests of justice reflects the public interest in the finality of litigation. There must be some basis for reconsideration; the process is not an opportunity for a party to provide further evidence or to seek to reopen matters which the Tribunal has determined.
4. Rule 71 says that an application for reconsideration must be made in writing within 14 days of the date on which the original decision was sent to the parties. Rule 72 explains the process to be followed on an application for reconsideration under rule 71, which says:
*“(1) 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...
(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it;...”*
5. The Tribunal has discretion to reconsider a judgment if it considers it to be in the interests of justice to do so. Rule 72(1) requires the judge to dismiss the application if the judge decides that there is no reasonable prospect of the original decision being varied or revoked. Otherwise, the application is dealt with under the remainder of Rule 72.
6. In deciding whether or not to reconsider the judgment, the tribunal has a broad discretion, which must be exercised judicially, having regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
7. The reconsideration rules and procedure are not intended to provide an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way. They are not intended to provide parties

with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed (with or without different emphasis). Nor do they provide an opportunity to seek to present new evidence that could have been presented prior to judgment.

Conclusions on the claimant's application

8. The claimant's application for reconsideration was made within the required 14 days of the date on which the judgment was sent to the parties and the claimant and therefore complied with the procedure required by rule 71.
9. Rule 72(1) requires me to consider whether there is any reasonable prospect of the original decision being varied or revoked. I need to decide whether there is any reasonable prospect of a conclusion that variation or revocation of the original decision is necessary in the interests of justice. I have considered the application with this test in mind.
10. The claimant requests reconsideration on the grounds that he believed that ACAS had consulted with the tribunal and that the tribunal were in receipt of the information ACAS held. Further, that if the claimant had been able to attend the hearing, he could have disclosed a spreadsheet and summary showing that £30 remained outstanding. These documents were attached to his email reconsideration request. Additionally, the claimant confirmed that he, "*would like to know how [he] stood regarding the situation which [he] felt merited a constructive dismissal hearing but which ACAS felt wasn't applicable...*"
11. The claimant has the burden of proving his case and was given the opportunity to attend the hearing, either in person or remotely. The claimant was informed, prior to the hearing taking place, that the information he provided (namely correspondence with ACAS) could not be considered at the hearing. The new evidence attached to the email requesting reconsideration cannot be considered since it was not available to me before coming to my decision. There was no claim for constructive dismissal brought and therefore this was not considered during the hearing.

12. Findings of fact were made based upon the evidence as presented, and I applied the law to those findings in the conclusions. Having considered the grounds cited in the claimant's application, I do not consider that they provide any basis on which to revoke or vary the judgment.

13. In light of this, there is no reasonable prospect of variation or revocation of the original decision. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.

14. In the circumstances the application for a reconsideration of the judgment is rejected on the basis that there is no reasonable prospect of it being varied or revoked.

15. The application for reconsideration is therefore refused.

Employment Judge Welch

Date: 22 August 2024

JUDGMENT SENT TO THE PARTIES ON

.....30 August 2024.....

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FOR THE TRIBUNAL OFFICE