



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Michal Kloczkowski

v

Ikea Distribution Services Limited

Heard at: Cambridge

On: 12 – 15 February 2024

Before: Employment Judge L Brown

Members: Ms C Smith and Mr D Sagar

Appearances

For the Claimant: In person

For the Respondent: Ms Barrett, Counsel

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the Tribunal is that the Claimant's application dated 21 May 2024 for reconsideration of the Judgment dated the 7 May 2024 and sent to the parties on 8 May 2024 is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The Claimant's complaints of unfair dismissal, and harassment on the grounds of religious and philosophical belief were dismissed by a Reserved Judgment dated 7 May 2024 sent to the parties on 8 May 2024.
2. The Claimant made an application for reconsideration by email dated 21 May 2024. This application was not brought to my attention until the 4 September 2024.

The Law

3. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 (“the Rules”).

4. Under Rule 70 of the Rules, the Employment 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. On reconsideration, the decision may be confirmed, varied or revoked.

5. Rule 71 provides that an application for reconsideration under Rule 70 must be made in writing (and copied to all other parties) within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.

6. The process by which the Tribunal considers an application for reconsideration is set out in Rule 72. Rule 72(1) provides that where an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused and the Tribunal shall inform the parties of the refusal.

7. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows:

“34. [...] a request for reconsideration is not an opportunity for a party to seek to relitigate matters that have already been litigated, or to re-argue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration. Where [...] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.”

8. The Claimant’s application was received within the relevant time limit in accordance with Rule 71.

9. The application has been copied to the Respondent.

10. The application for reconsideration is made on wide ranging grounds in a document numbering 35 pages, and it is not proportionate to repeat them here and in any event many points are repeated multiple times.

11. The grounds set out made in support of the application is an attempt to re-litigate issues which were explored and ventilated in detail at the hearing. The Tribunal has made clear findings of fact. It is not the purpose of a reconsideration application to allow a party to dispute a determination of a finding of fact that it disagrees with or is an opportunity to rehearse the arguments that have already been made. It is a fundamental requirement of litigation there is certainty and finality.

12. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice. Also the Claimant has not argued or identified an error of law, which is a matter for appeal and not reconsideration.

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

14. Accordingly, the application for reconsideration is therefore refused.

Employment Judge L Brown

Date: 13 October 2024

Sent to the parties on: 15 October 2024

For the Tribunal Office.

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>