



EMPLOYMENT TRIBUNALS

Claimant: Ms V Madhavji

Respondent: Watson Ramsbottom Ltd

JUDGMENT

The claimant's application dated 1 November 2024 but sent to the Tribunal on 2 November 2024 for reconsideration of the judgment sent to the parties on 18 October 2024 is refused.

REASONS

1. The application for reconsideration was made outside the time limit in rule 70 of the Employment Tribunals Rules of Procedure 2013. The application gives no reason why it is made late and does not make an application to extend time. I do not extend time on my own initiative. The application is refused for this reason.

2. However, I have gone on to give reasons as to why I would have refused the application on the grounds that there is no reasonable prospect of the original decision being varied or revoked, had I extended time for the application to be considered.

3. References to paragraph numbers are to paragraphs in the written reasons for the judgment.

The Law

4. An application for reconsideration must, in accordance with rule 71, be presented in writing within 14 days of the date on which the written record of the original decision was sent to the parties. Rule 5 allows a Tribunal, on its own initiative or on the application of a party, to extend the time limit.

5. 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).

6. Rule 72(1) of the 2013 Rules of Procedure allows a judge to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

7. In common with all powers under the 2013 Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

The Application

8. The application is an application to reconsider my decision to refuse interim relief. The reserved judgment and reasons were sent to the parties on 18 October 2024.

9. The application letter is dated 1 November 2024. However, the covering email shows this was sent to the Tribunal at 00:10:19 on 2 November 2024.

10. The application seeks reconsideration of two parts of my conclusions. The first is where, in paragraph 70, I conclude: “the matters alleged at paragraph 23 start before the alleged protected disclosures, and cannot, therefore, be because of any of the protected disclosures”. The second is where, in paragraph 69, I refer to differences between what is said in paragraphs 23-26 of the Particulars of Claim and what was said in the claimant’s resignation letter.

11. The claimant’s argument in relation to the relevant part of paragraph 70 is that I should have taken the protected disclosures to include disclosures identified in case number 2402291/23 as taking place in 2021 on the basis that the claimant, when presenting the claim which is case number 2404873/24, wrote in a cover letter that it was linked to case number 2402991/23.

12. The claimant’s argument in relation to the relevant part of paragraph 69 is based on an application to amend her particulars of claim.

Conclusions

13. The application for reconsideration was made just over 10 minutes out of time, being made in the very early hours of 2 November 2024, rather than on 1 November 2024, which was the last day of the 14 day period within which the application should have been presented. Although this is a very short period out of time, no application has been made to extend time and no reason has been put forward as to why I should extend time. Time limits should be observed, unless there is a good reason why this cannot be done. Without any reason being given as to why the application was not presented in time, I decline to extend time on my own initiative. For this reason, the application for reconsideration is refused.

14. I have, however, considered what I would have concluded on the merits of the application, had I extended time for it to be considered.

15. For reasons I gave in paragraph 14, I approached the prospects of success on the basis of the case as pleaded. The claimant’s argument for reconsideration of part of paragraph 69 is based on an application to amend her particulars of claim. I do not consider there is any reasonable prospect of me varying or revoking this part of my reasons. As I stated in paragraph 14, I considered it in keeping with the

summary and speedy nature of the interim relief process, that I considered the claimant's case as pleaded in her claim form. My decision to consider the interim relief application on the basis of the pleaded case does not prevent the claimant subsequently applying to amend her claim and, if successful in that application, having the merits of the amended case considered at a final hearing.

16. I do not consider there is any reasonable prospect of me varying or revoking the part of paragraph 70 the claimant refers to. For reasons I gave in paragraph 14, I considered that the application for interim relief had to be considered on the basis of the claimant's pleaded case. I do not consider that a statement in a covering letter to a claim form that it is linked to an existing case has the result of incorporating in the pleaded case for the new case all the protected disclosures relied on for the case presented previously. I identified in paragraphs 30-32 the alleged protected disclosures included in the claimant's pleaded case.

17. Even if I had been persuaded to change the relevant parts of paragraphs 69 and 70, this would not have made a difference to the decision not to grant interim relief. The reasons set out in paragraph 68 would have been enough, by themselves, to support the refusal of interim relief. The claimant only refers to part of paragraph 70. The remainder of paragraph 70 would have been enough to support the refusal of interim relief.

18. For these reasons, even if I had extended time for the application, I would have concluded that there was no reasonable prospect of the decision to refuse interim relief being varied or revoked.

Conclusion

19. I refuse the application for reconsideration of the decision to refuse interim relief because the application was presented out of time.

20. Had I not refused the application for this reason, I would have refused it on the basis that there is no reasonable prospect of the original decision being varied or revoked.

Employment Judge Slater

Date: 19 November 2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON

25 November 2024

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