



EMPLOYMENT TRIBUNALS

Claimant: Mr S A Barker

Respondent: Lees Hall Golf Club

Heard by: Employment Judge Brain on 25 September 2019

Written Representations:

By the claimant on 27 August 2019

By the respondent on 16 September 2019

JUDGMENT UPON RECONSIDERATION

The Judgment of the Employment Tribunal is that there are no reasonable prospects of the Judgment promulgated on 15 August 2019 being varied or revoked.

REASONS

1. By Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a Judgment where it is necessary in the interests of justice to do so. On reconsideration, the Judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record (in this case the written record being the Judgment promulgated on 15 August 2019) was sent to the parties. I shall now refer to this as *'the Judgment.'*
3. On 27 August 2019 the claimant sent an email to the Employment Tribunal in which he asked the Tribunal to review the Judgment. Plainly, this was effectively an application by the claimant for reconsideration of the Judgment and it was presented within the relevant time limit provided for in the Rules.
4. Under Rule 70, a Judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a Judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party

seeking the reconsideration but also 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.

5. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the Judgment being varied or revoked. Essentially, this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient for an applicant to apply simply because he or she disagrees with the decision.
6. If the Employment Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon the considering of the application upon the papers initially is to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of reconsideration hearing.
7. The claimant's application for reconsideration runs to eleven pages. The application is somewhat discursive. He has in my judgment failed to identify any procedural mishap affecting the fairness of the proceedings. He has also failed to identify any error of law on my part (in the sense that I applied the relevant law incorrectly or made findings of fact that were not open to me on the basis of the evidence that was presented).
8. The claimant has, in places, sought to introduce new evidence: I refer in particular to the end of the eighth page and the beginning of the ninth page of the claimant's submissions. He has also sought to attack the Judgment in places by undertaking a minute examination of my findings of fact. Such a critique is not the purpose of a reconsideration.
9. I am satisfied that I applied the law correctly in this case. I identified the relevant permitted reason for the claimant's dismissal. It is worth repeating that it is not for the Employment Tribunal to go behind the business decision taken by the employer. I was satisfied that the reorganisation led to the claimant's role being redundant and that that was a fair reason for the claimant's dismissal. I was also satisfied that the procedure carried out by the respondent was one that was reasonable and within the range of reasonable responses open to a reasonable employer.

10. The interests of justice do not require there to be a reconsideration of the Judgment. Accordingly, the application for reconsideration fails and stands dismissed.

Employment Judge Brain

8 October 2019