



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr O Sadique

Respondent

KK Power International UK Limited
(Response not entered)

and

DECISION ON APPLICATION FOR RECONSIDERATION

Under Rules 70-73 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

1. There is no reasonable prospect of the Judgment dated 24 September 2018 being varied or revoked on the grounds set out in the application for reconsideration. The application is refused.
2. Reasons for this decision are attached.

REASONS

Background

1. The Respondent did not enter a response to the claim. The Tribunal staff made a pre-hearing telephone call to the parties on 21 September 2018. The Claimant was left a voicemail message. The Respondent confirmed it would attend. However, neither party attended the hearing on 24 September 2018.
2. The Tribunal decided to proceed with the hearing in the absence of the parties under rule 47 of the Employment Tribunals Rules of Procedure.
3. The Claimant was awarded £405 as claimed in the ET1 claim form presented on 3 April 2018. The Judgment was sent to the parties on 10 October 2018.
4. In a letter dated 21 September 2018 (received by the Employment Judge on 24 September 2018, after the hearing) the Respondent stated *“This is to confirm that I have received your letter regarding this matter but our company director is not available as he has travel commitments.”* There was a reference to a letter sent *“last month”* but there was no such letter on the Tribunal file.

5. On 17 October 2018 the Respondent made an application for reconsideration of the Judgment.

Preliminary consideration

6. Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 -

Rule 70 Principles

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.

Rule 71 Application

Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

Rule 72 Process

(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 been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application. ...

Respondent’s application

7. The application stated:

“We are in receipt of your judgment dated the 10th of October 2018 but are a little dismayed as we are being forced to pay wages to an employee who left without giving notice and worse still, he used a company card to purchase goods for himself via Amazon and we suspect, arranged a credit card in my name without authorisation.

Obviously I would like to have attended the hearing but was getting ready for business meetings abroad.

I am not certain under which heading this would come, but is it possible to have this matter heard again as I am certain that if aware of all the facts the decision would be different.”

Decision

- 8. The Respondent has given no reason for failing to enter a response to the claim.
- 9. Nor has the Respondent given any good reason for failing to attend or be represented at the hearing, other than that the author of the letters was busy on other matters.
- 10. There is nothing in either letter to indicate that the Claimant was not owed the wages he claimed and was awarded.
- 11. In these circumstances there is no reasonable prospect of the original decision being varied or revoked on the grounds set out in the application.

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Employment Judge Vowles

27 November 2018

Sent to the parties on

8 January 2019

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for the Tribunal Office