



EMPLOYMENT TRIBUNALS

Claimant: M O'Callaghan

Respondent: Flint Hire & Supply Ltd

JUDGMENT

The claimant's application dated 4 December 2024 for reconsideration of the judgment sent to the parties on 19 July 2024 is refused.

REASONS

1. The Claimant issued his claim on 18 June 2024. He claimed unfair dismissal and breach of contract (wrongful dismissal). His ET1 indicated that he had been employed from 20 June 2022 to 30 April 2024.
2. On 26 June 2024, the Tribunal wrote to the Claimant indicating that it was proposing to strike out his complaint of unfair dismissal on the basis that he had been employed for less than two years, and consequently (per section 108 of the Employment Rights Act 1996) he did not have the necessary service to bring a complaint of unfair dismissal. The Claimant was given until 10 July 2024 to object to the proposed strike out.
3. On the same day, the Claimant wrote to the Tribunal. He explained (in summary) that he considered the Respondent had deliberately "used" section 108 of the 1996 Act against him. He referred to the fact that he was still bringing a complaint for breach of contract, and he referred also to lobbying his MP to change the law to permit claims of unfair dismissal to be brought without the necessary period of qualifying service.
4. On 12 July 2024, I struck out the complaint of unfair dismissal on the papers, on the basis that the Claimant did not have two years service and had failed to give an acceptable reasons why the complaint should not be struck out. That Judgment (with brief reasons) was sent to the parties on 19 July 2024.
5. On 4 December 2024, the Claimant write to the Tribunal asking that the Judgment be reconsidered. He referred to further evidence he had sent to the Tribunal on 19 July 2024.

6. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 (“the Rules”). Under Rule 70 of the Rules, the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a decision where it is necessary in the interests of justice to do so. On reconsideration, the decision may be confirmed, varied or revoked.
7. Rule 71 provides that an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.
8. The process by which the Tribunal considers an application for reconsideration is set out in Rule 72. Where the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Otherwise, the Tribunal shall send a notice to the parties setting out 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.
9. The Claimant’s application was received over four months after the time limit for applying for reconsideration had expired. The application did not give any explanation why it was not made within the time limit, or was not made any sooner than it was. On that basis alone, the application cannot succeed.
10. In any event, neither the application for reconsideration nor the document sent by the Claimant to the Tribunal on 19 July 2024 disclose any reason why the Judgment ought to be reconsidered. The Claimant does not dispute that he lacked the necessary qualifying service to bring the complaint of unfair dismissal. The complaint of unfair dismissal is therefore doomed to fail, and it would not be in accordance with the overriding objective to allow to proceed to a full hearing. Therefore even if the application had been made in time, I would not have been satisfied that there was any reasonable prospect of the Judgment being varied or revoked. The application for reconsideration is therefore refused.

Employment Judge Leith
Date 18 December 2024