



# EMPLOYMENT TRIBUNALS

Claimant: Ms J Piesare

Respondent: Surrey And Sussex Healthcare NHS Trust

## JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application to the Tribunal dated 5 September 2017 for a reconsideration of the Tribunal Judgment and Reasons sent to the parties on 21 August 2017 is refused because I consider that there is no reasonable prospect of the original decision being varied or revoked.

### REASONS

1. At a Preliminary Hearing on 14 August 2017 and in a Judgment sent to the parties on 21 August 2017, I refused the Claimant's application to set aside the Unless Order dated 12 June 2017 and to grant the Claimant relief from the dismissal of her Tribunal claim.
2. In her letter of application at the Claimant contended that my decision had been 'hinged largely' on the fact that a hearing over 10 days would not be listed' until November 2018 and that therefore the length of delay would not be in the interests of justice.
3. The Claimant contended that the delay before a hearing and the fact that relevant members of staff had left the Respondent's organisation should not prejudice her right to have her claim heard. The Claimant also alleged that she had lost income and pension and that the Respondent had made an application for costs against her for a very significant amount. She had the determination to see the case through and she wished to be given the opportunity to do that.
4. Rule 70 of the Employment Tribunal's Rules of Procedure 2013 provides:

***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, to 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.***

5. The Tribunal had issued an Unless Order on 12 June 2017 requiring the Claimant to provide the Respondent with her witness statements no later than 19 June 2017, against the background of the failure by the at Claimant to comply with Tribunal directions. Before issuing the Unless Order at the Claimant had been sent a warning letter (a pre-Unless Order letter). At that stage the listed hearing date was imminent.
6. In her letter of reply, dated 11 May 2017 to the pre-unless order letter, the Claimant alleged that she was in the process of obtaining a new lawyer and she anticipated the hearing date for exchange of witness statements on 15 June 2017, nearly a month before the listed 10 day hearing dates commencing on 10 July 2017. Although the Claimant latterly raised health issues, she did not raise any health issue in her letter of 11 May 2017.
7. My enquiry relating to the next available hearing date for a 10 day case was in my judgment a relevant matter to consider, but my judgment refusing the Claimant's application was not limited to the impact of the substantial delay before a hearing dates could have been listed.
8. Overall, I concluded that against the background of the Claimant's failure to comply with Tribunal directions and with the terms of the Unless Order, the warnings the Claimant had been given, and the substantial delay before a potential hearing date, the balance of justice was not in favour of granting the Claimant's application.
9. The process of reconsideration is not available to a party to reargue their case. All the matters raised by the Claimant in her letter of application for reconsideration were considered at the Tribunal hearing with the exception of the costs application by the Respondent. However, the fact that the Respondent has now made a costs application does not in my judgment provide grounds for reconsideration.
10. I consider that the Claimant has not raised any grounds which would enable me to reconsider my judgment, within the scope of the powers of reconsideration under rule 70 of the Employment Tribunal's Rules of Procedure 2013.
11. the Claimant's application for reconsideration of the Judgment sent to the parties on 21 August 2017 is refused because in my judgment there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

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Employment Judge Hall-Smith  
12 October 2017