



EMPLOYMENT TRIBUNALS

Claimant: Mr A Achor

Respondent: Stockport Metropolitan Borough Council

JUDGMENT

The claimant's application dated 26 February 2018 for reconsideration of the judgment sent to the parties on 23 February 2018 is refused.

REASONS

1. The claimant has applied very promptly for reconsideration of my judgment declining his application for reconsideration of the dismissal of his withdrawn complaints of race discrimination. I refused that application because it was out of time, but noted that it appeared to lack merit in any event.

2. The claimant says that the merits of his previous application were not properly explained. He says that the withdrawal of his race discrimination complaint was done at a time when he was highly vulnerable and inadequately represented. He provides medical evidence showing mental health referral issues from late 2016. He has suffered from anxiety and sleep disturbance. He has been treated with medication and other therapies.

3. A report from a clinical psychologist of 15 February 2018 records an episode of traumatic hallucinations (apparently in late 2016) which has left him with nightmares, flashbacks and intrusive memories. These symptoms are consistent with a post-traumatic stress reaction and he reports a severe impact on his life in terms of distress, impaired social functioning, and not being able to work.

4. I do not underestimate those difficulties. However, the claimant was able to prepare a detailed account of events when he presented the claim form in May 2017, and to give detailed instructions to his representative in August 2017 when further particulars of the claim were provided and the direct race discrimination and victimisation complaints withdrawn. The medical evidence does not suggest he was unable at that stage to correct an erroneous withdrawal, and nor does it explain why he was only able to do so in February 2018. To that extent it does not assist him on time limits and I decline to vary the judgment of 23 February 2018.

5. Accordingly the live complaints and the issues to be determined at the final hearing remain as indicated in Annex B to the case management order from August 2017.

6. It may help the claimant, however, to understand two things. Firstly, there is a live complaint of race discrimination in the form of racial harassment. Paragraph 6 of Annex B records that. Harassment related to race is sometimes regarded as a form of race discrimination. Conduct which amounts to harassment cannot also be a detriment for the purposes of direct discrimination. If his allegations are well-founded it may well be that his case is correctly characterised as harassment not direct discrimination.

7. Secondly, even if the dismissal of the direct race discrimination complaint were revoked, that would still be a withdrawn claim over which the Tribunal could not adjudicate. That claim has ended under Rule 51 irrespective of the subsequent dismissal of the claim.

Employment Judge Franey

9 March 2018