



THE EMPLOYMENT TRIBUNAL

Claimant **Mrs C Bodie**
Respondent **BMI Healthcare Ltd**

JUDGMENT

The claimant's application dated 14 November 2018, for reconsideration of the judgment on a preliminary issue sent to the parties on 2 November 2018, is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked.
2. The tribunal has considered the contents of the claimant's detailed five-page application of 14 November 2018, together with the supporting documentation.
3. On 16 October 2018, at the two-day preliminary hearing, the tribunal dismissed the claimant's claims of direct discrimination and harassment (sex and race) for want of jurisdiction, ruling that the claims were out of time and it was not just and equitable to extend time. The claims of unfair dismissal and disability discrimination remain before the tribunal.
4. The claimant's primary case is that it is just and equitable for the tribunal to extend time under section 123(2)(b) of the Equality Act 2010 in order to hear her complaints of direct sex discrimination and sexual harassment.
5. The claimant makes no application for reconsideration in respect of direct race discrimination or harassment related to race.
6. The claimant repeats many of the arguments and information placed before the tribunal during the two-day preliminary hearing, when she was given ample opportunity to present her case. She makes various complaints about the conduct of the respondent and the conduct of the preliminary hearing, and complains that she was unable to present her case as she wished to. She also found proceedings confusing, and felt that she was treated unfairly. Much of the material she presents appears to be designed to explain what she sees as the strength of her case and the weakness of the respondent's case. It also appears to be seeking to argue that the sex discrimination continued up until

dismissal, and was not out of time, and in any event in relation to her still pursuing a grievance in relation to these matters at the time of dismissal.

7. In a lengthy two-day preliminary hearing for which it would seem that the claimant did not appear to have adequately prepared, despite knowing that there would be a ruling on the time point, both parties were given a fair opportunity, in accordance with the overriding objective, to present their respective cases as to the extent to which the claims were out of time, and whether it was just and equitable to extend time. In fact Employment Judge Emerton went out of his way to ensure that the claimant was enabled to put her case on an equal footing with the respondent, having also changed the planned timings of the preliminary hearing to ensure that the claimant did not need to give evidence and make submissions until the second day, and ensured that she understood the matters which were in dispute, and had time better to focus on her arguments.
8. It was for the claimant to present her case at the preliminary hearing, and she did so. Her evidence and submissions were taken into account. To the extent that the application contains any new arguments or assertions of fact, the appropriate time to raise these was at the preliminary hearing, in a coherent way. To the extent that the claimant has already raised these matters, they have already been taken into account. The judge reached a reasoned judgment and explained those reasons orally to the parties at the time, in some detail.
9. The arguments set out in the reconsideration application do not disclose any arguable basis to conclude, under rule 72(1), that there is any arguable basis for the original decision being varied or revoked.

Employment Judge Emerton
Date 28 November 2018

RECONSIDERATION JUDGMENT SENT TO THE
PARTIES ON

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FOR THE TRIBUNAL OFFICE