



EMPLOYMENT TRIBUNALS

Claimant: Mr H Karim
Respondent: KPMG UK Limited

JUDGMENT

The Claimant's application dated 16 January 2019 for reconsideration of the Judgment sent to the parties on 2 January 2019 is refused.

REASONS

1 The Claimant made a timely application for a reconsideration of the Judgment under Rule 71 of the Employment Tribunal Rules of Procedure 2013. He relied upon two broad grounds: (1) factual errors; and (2) failure of emphasis. The Claimant set out under each heading the paragraphs in the Reasons with which he took issue and the corrections he believes are required. The Respondent chose not to make any representations.

2 There are five factual errors relied upon. It is correct that Claimant started work in March 2014 not June 2014. Paragraph 14 contains a typographical error – the words “and the Claimant” should be deleted. The other “errors” are not errors but findings with which the Claimant disagrees and seeks to re-argue.

3 As for the failure of emphasis relied upon, this is a further attempt by the Claimant to argue that he did not in fact commit an act of misconduct in relation to his expenses claim. As set out at paragraph 70 of the Reasons, it is not for the Tribunal to decide which expenses were or were not properly claimed but to consider the reasonableness of the beliefs held by Mr Skinner and Mr Tippin. Nevertheless, the Claimant addressed the validity of his expense claims in detail at the hearing. The Tribunal did not accept his explanations reliable at the hearing and concluded that his inconsistency amply supported a finding of the dismissing and appeal officers that he lacked credibility. This included his explanations about meals and his Uber account.

4 The Claimant says that the evidence of Ms Miah was hearsay and that this was not recorded in the Judgment. Ms Miah's evidence was not hearsay, it was her direct evidence in a written statement. Ms Miah did not attend to give evidence and good reason was provided for her absence, see paragraph 4 of the Reasons. Ms Miah did not take either the decision to dismiss or to reject the

appeal; her absence at Tribunal was not fundamental and her evidence was given the appropriate weight in the circumstances.

5 The Claimant asserts again that his ill-health and medication affected his ability to submit accurate and reliable expense forms. This was not a case advanced at the investigation or disciplinary hearings, see paragraphs 34 and 42. It was considered and rejected by Mr Tippin on appeal as providing insufficient mitigation, see paragraphs 50 and 53 of the Reasons.

6 As for the quality of the investigation, the Claimant repeats points made on his behalf at the hearing. The Tribunal found that it was the Claimant who named Mr Oldroyd as a colleague with whom he worked “day in day out”, see paragraph 33, and considered the evidence which would have been given by other named individuals, see paragraph 77 of the Reasons.

7 The Claimant’s case at the hearing was that he had submitted paper receipts with his expense claims at the time each claim was made. In his application for reconsideration, he repeats his argument that he was therefore unfairly prejudiced as he did not have copies of the receipts when challenged later. This case was fully considered and rejected by the Tribunal at paragraphs 80 and 81 of the Reasons: neither Mr Skinner nor Mr Tippin had accepted that the Claimant had in fact submitted receipts at the time of the claim but believed that in many cases the expense had not been incurred at all. They were reasonably entitled to reject the Claimant’s case on this point, see paragraph 73 of the Reasons.

8 The Claimant relies upon what he claims was his good performance on the client project. As explained at paragraph 83 of the Reasons, even if there were high achievement it does not put a dismissal for dishonesty outside the range of reasonable responses.

9 Overall, the Claimant’s application is a repetition of arguments which he made at the hearing in an attempt to re-litigate points which were considered and rejected for the reasons given. Disagreement with the findings and decision of the Tribunal is not a valid ground for reconsideration.

10 None of the matters raised by the Claimant are such that they would give any reasonable prospect of original decision being varied or revoked and it is not necessary to reconsider the judgment in the interests of justice. Accordingly, the application for a reconsideration is refused under rules 70 and 72.

Employment Judge **Russell**

31 January 2019