



EMPLOYMENT TRIBUNALS

Claimant: Mr J Hulm

Respondent: Sussex Oakleaf Housing Association Ltd

JUDGMENT

The claimant's application dated 26 February 2019 for reconsideration of the judgment sent to the parties on 13 February 2019 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The claimant was present at the full merits hearing.
2. The claimant seeks to rely on documents that were not before the Tribunal. He does not appear to contend that any of these documents were not in his power, possession or control at the time of the hearing and that they have since come to light; the documents are mainly fit notes and documents such as correspondence between him and the respondent. He argues that he did not choose to rely on them before the Tribunal and because he was ill and acting in person, he did not identify them as relevant. Nevertheless, the claimant did not contend that he was medically unfit to attend the hearing.
3. The only possible exception to this is a document dated November 2018, (which seemingly post-dates the hearing in September 2018). This is described as "Southdown subject access request form relating to claimant request." It is not explained what this document is. However, it appears to be a set of notes (presumably contemporary) of the 17 November 2015 meeting between the parties. There is no explanation why, if the claimant wished to rely on alternative notes of this meeting, these could not have been sourced before the hearing, as it appears that they were obtained under Data Protection legislation. The claimant was in possession of the respondent's notes of this meeting before the hearing and, if he contended

that the respondent's notes were inaccurate, there is no good reason why the alternative notes could not have been sourced in time for the hearing.

4. Essentially the claimant is seeking to re-litigate matters that were the subject of the full merits hearing by relying on documents that could have been presented to the tribunal. It is not generally in the interests of justice that parties should be given a second bite of the cherry because they have failed as a result of oversight or a miscall in their litigation strategy to adduce all the evidence available in support of their cases at the original hearing.
5. Further, and for the avoidance of doubt, there is no reasonable prospect that the documents would have an important influence on the outcome of the case. The Tribunal accepted that the duty to make reasonable adjustments was engaged at the time of dismissal and that the adjustment sought by the claimant was reasonable. However, the tribunal found that this adjustment would not have avoided the disadvantage to the claimant under 20(1)(3), that is that it would not have been effective.
6. The claimant also seeks to re-argue his case with close reference to documents that were before the tribunal and which he was able to rely upon in evidence, in cross examination and in submissions. The claimant appears to contend that he did not do himself justice at the first hearing, and should be permitted a second opportunity. There is no reasonable prospect that the judgment would be varied or revoked in such a situation.
7. Accordingly, there is no reasonable prospect of the decision being revoked or varied on the basis of the claimant's application for reconsideration.

Employment Judge Nash
Date: 27 March 2019