



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr David Seccombe

AND

Respondent

Reed in Partnership Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD IN CHAMBERS AT Plymouth **ON**

16 April 2019

EMPLOYMENT JUDGE N J Roper

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the reserved judgment dated 27 March 2019 which was sent to the parties on 2 April 2019 ("the Judgment"). The grounds are set out in his email letter dated 14 April 2019. That letter was received at the Tribunal office on 14 April 2019.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on

- which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.
3. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
 4. The claimant's letter sets out his contentions that there should be reconsideration of the Judgment in the interests of justice. The letter runs to 36 pages. In short it refers to medical evidence and other documents which were not submitted to the Tribunal and makes further very detailed submissions in connection with the claimant's alleged disabilities, the meaning of disability, and the relevant Guidance.
 5. There is no suggestion that any of the further evidence now submitted was not available when the hearing bundle was agreed and before the Tribunal. There is nothing relied upon which has now come to light and which could not reasonably have been put before the Tribunal at the hearing. In addition, at the hearing the claimant was represented by Counsel who made cogent submissions on behalf of the claimant on all relevant matters which were based on the evidence and agreed relevant documents before the Tribunal. The matters of medical evidence, the claimant's alleged disabilities, and the meaning of disability in the relevant Guidance were all considered in the light of all of the evidence presented to the Tribunal before it reached its decision.
 6. The earlier case law suggests that the interests of justice ground should be construed restrictively. The Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/80 (where the applicant was seeking a review in the interests of justice under the former Rules which is analogous to a reconsideration under the current Rules) the EAT decided that the interests of justice ground of review does not mean "that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".
 7. More recent case law suggests that the "interests of justice" ground should not be construed as restrictively as it was prior to the introduction of the "overriding objective" (which is now set out in Rule 2). This requires the tribunal to give effect to the overriding objective to deal with cases fairly and justly. As confirmed in Williams v Ferrosan Ltd [2004] IRLR 607 EAT, it is no longer the case that the "interests of justice" ground was only appropriate in exceptional circumstances. However, in Newcastle Upon Tyne City Council v Marsden [2010] IRLR 743, the EAT confirmed that it is incorrect to assert that the interests of justice ground need not necessarily be construed so restrictively, since the overriding objective to deal with cases

- justly required the application of recognised principles. These include that there should be finality in litigation, which is in the interest of both parties.
8. Accordingly I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge N J Roper
Dated: 16 April 2019