Case No: 2206437/2018

EMPLOYMENT TRIBUNALS

Claimant: **Dr. C. Mallon**

Respondent: **ela8 Limited**

Employment Judge Goodman

8 July 2019

RECONSIDERATION JUDGMENT

The claimant's application dated 26 June 2019 for reconsideration of the judgment sent to the parties on 26 June 2019 is refused under rule 72 of the Employment Tribunals Rules of Procedure 2013.

REASONS

1. In a sequence of emails on 26, 27 and 29 June 2019 the claimant wrote asking for the judgment to be reconsidered.

2. Under the Employment Tribunal Rules of Procedure 2013 a request for reconsideration may be made within 14 days of the judgment being sent to the parties. By rule 70 a Tribunal "may reconsider any judgment where it is necessary in the interest of justice to do so", and upon reconsideration the decision may be confirmed varied or revoked.

3. Rule 72 provides that an Employment Judge should consider the request to reconsider, and if the judge considers there is no reasonable prospect of the decision being varied or revoked, the application shall be refused. Otherwise it is to be decided, with or without a hearing, by the Tribunal that heard it.

4. Under the 2004 rules prescribed grounds were set out, plus a generic "interests of justice" provision, which was to be construed as being of the same type as the other grounds, which were that a party did not

receive notice of the hearing, or the decision was made in the absence of a party, or that new evidence had become available since the hearing provided that its existence could not have been reasonably known of or foreseen at the time. The Employment Appeal Tribunal confirmed in Outasight VB Ltd v Brown UKEAT/0253/14/LA that the 2013 rules did not broaden the scope of the grounds for reconsideration (formerly called a review).

5. The emails asking for reconsideration are those sent on 26 June at 16:43, 17:17, 17:26, 21:33, 22:21 and 23:02, on 27 June 2019 at 05:06, 07:46, and 21:28, and on 29 June 2019 at 05:58 and 06:42. I have also seen emails to the respondent on 26 June at 17:49 and 8 July at 13:06 which were copied to the tribunal.

6. Putting the content of those emails together, the claimant says:

- He has insufficient means – he owes £9,000 on a credit card, his partner has a child and works part-time, they have a mortgage, and he is unemployed from May 2019 and has still not found another job.
- He only had a settlement payment from one of his previous claims.
- The recruiter altered the CV, deleting detailed information about dyspraxia, without his permission; he does not mention or dispute the witness statement of the recruiter.
- There is a lot of general material about reasonable adjustments in general, and his own condition in particular, most of which was in the bundle at the costs hearing, which does not engage with the fact that he was in fact given an oral interview so has not been disadvantaged by having to send in a written job application.
- He has sent a lot of documents to show the respondent was wrong about his HMRC experiences as discussed at interview.
- although he had just started another job he would have changed to this one as the job required a 35 mile round trip. He does not explain how the respondent's job, would have been an improvement, as the respondent is in Covent Garden and he is in Cannock, Staffordshire, a much longer journey.
- of the costs hearing he says: "I wanted to attend in person as a reasonable adjustment", and: "I really wanted to appeal in person".

7. Most of these points were already before the tribunal, (what happened in the interview, what his condition is and his need for oral communication rather than written) or could have been before the tribunal (information about means).

8. As for an oral hearing as a reasonable adjustment, the claimant was offered an oral hearing, and an oral hearing took place, but he chose not to come to it. The words in the standard letter (discussed in the

reasons for the judgment) are there in case someone does not want to come, when they can send written representations instead; but it is permissive, not obligatory. The claimant knew it was an oral hearing because he said he could not afford to travel to London for it. If his question whether he needed to attend was not answered, he knew he had to attend. This is without taking into account that he had had many other tribunal claims and several hearings, so he was not innocent of procedure.

9. I conclude that none of these points go to show that it is the interests of justice to hold another oral hearing. They are all points which were or could have been made at the hearing on 24 June.

10. The claimant has no reasonable prospect of showing it was in the interests of justice to reconsider the costs decision. The application to reconsider is therefore refused under rule 72.

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Employment Judge GOODMAN

Date 8 July 2019

JUDGMENT SENT TO THE PARTIES ON

10 July 2019

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FOR THE TRIBUNAL OFFICE