



EMPLOYMENT TRIBUNALS

Claimant: Mr D Hall

Respondent: Emmanus North East

BEFORE: Employment Judge Martin

JUDGMENT ON RECONSIDERATION

The Judgment of the Tribunal is that the Claimant's application for a re - consideration of the Judgment given orally on 13 February 2019 is refused. The Judgment given orally on 13 February and sent to the parties on 7 March 2019 is hereby confirmed.

REASONS

1 On 26 March 2019 the Claimant made an application for a reconsideration of the Judgment sent to the parties on 7 March and delivered orally at the hearing on 13 February 2019. Although the application for re-consideration was made late and without a request for reasons, the Tribunal decided to consider the application in the circumstances following the subsequent request for reasons. On 26 April the Respondent's representative sent a response to that application and submitted that the application did not have any merit.

2 The Tribunal considered Rules 70 – 72 of Schedule of the Employment

Tribunals (Constitution and Rules of Procedure) Regulations 2013; the Claimant's application for reconsideration and the Respondent's response.

3 The Tribunal determined that it could deal with the application without a hearing.

4 The Tribunal considered that the Claimant's application for reconsideration effectively amounted to a request to reconsider evidence already heard by the Tribunal and upon which the Tribunal had already made findings of fact. It was merely an attempt to re-litigate a matter that had already been decided by this Tribunal, effectively in essence an appeal against the Judgment of the Tribunal and not a request for reconsideration.

5 The Tribunal determined that there was insufficient evidence to establish that the claimant was a disabled person by reason of either of the impairments upon which he relied at the hearing. During the course of the hearing, Employment Judge Martin sought to elicit information from the claimant about the effect of his alleged conditions on his ability to undertake normal day to activities, which was part of the test which had to be applied. This was to assist the claimant who was unrepresented, but he did not provide sufficient evidence to prove that he was disabled at the material time. In his application for reconsideration the claimant has not provided any new evidence, other than now suggesting that his main disability is his mental impairment, which was not the basis on which he led his evidence in the Tribunal. The Tribunal is mindful of the leading case of *Ladd v Marshall [1954] EWCA CIV1*, which sets out the guidelines for the introduction of fresh evidence, in particular that it must be shown that the fresh evidence could not have been obtained without reasonable diligence for use at the trial and the circumstances

when granting leave to adduce new evidence must be very rare.

6 In considering any application for reconsideration, the Tribunal has to take into account the interests of both parties. It is in the interests of justice and the public interest that there should be, so far as possible, finality in any litigation, and cases should not be reconsidered, as this application is seeking to do, by asking for a reconsideration of evidence upon which findings of fact have already been determined.

7 For those reasons the Claimant's application for a reconsideration of the Judgment given orally on 13 February 2019 and sent to the parties on 7 March 2019 is dismissed.

Employment Judge Martin

Date 2 July 2019