



# EMPLOYMENT TRIBUNALS

**Claimant:** Darren Owen

**Respondent:** Galliford Try Employment Ltd

**Heard at:** Exeter                      **On:** 14 August 2019

**Before:** Employment Judge Housego

## **Representation**

Claimant: None

Respondent: Written request

## **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 02 July 2019 which was sent to the parties on 25 July 2019 ("the Judgment"). The grounds are set out in his email to the Tribunal of the same date.
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 grounds relied upon by the claimant are these:
  - a. There had been non disclosure of a document of 25 July 2019 (sic, presumably 2018) and there was no metadata with a document that was disclosed.
  - b. A second email was an internal document that the claimant says he would not have seen at the time, and the respondent did not disclose the disciplinary and dismissal procedures so he had to provide them.
  - c. He had suffered a hypoglycaemic reaction when driving in the heat for 3 hours, so this was indirect disability discrimination.
  - d. An email of 25 July 2019 (sic) is commented upon at some length.
  - e. A document was handed in before the respondent's submissions and he did not see it before it was handed over.
  - f. There had been a misinterpretation of the evidence about the timings on the day the claimant was dismissed.
  - g. There had not been sufficient attention paid to the effect (by reason of diabetes) of heat on the claimant at the time he was dismissed.
5. The matters raised by the claimant were considered in the light of all of the evidence presented to the Tribunal before the decision was reached. 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 68/60 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*". This is not the case here. In addition it is in the public interest that there should be finality in litigation, and the interests of justice apply to both sides.

6. The 7 matters put forward are not individually or collectively reason to reconsider the judgment for the following reasons:
  - a. This were matters to be raised before or at the hearing, not afterwards.
  - b. There was no failure to disclose as the claimant had the documents already.
  - c. This is to restate the case: a reconsideration is not to enable a party to reargue a point put in the hearing, and considered before judgment was given (as this was).
  - d. This paragraph is no more than a further submission on a point decided in the judgment, so that it is disagreement with the findings not a reason why the judgment should be reconsidered.
  - e. This is a reference to Counsel's skeleton argument. My recollection is that the claimant saw it: in any event there was nothing in it not said by Counsel in his oral submissions.
  - f. This is no more than to disagree with the judgment.
  - g. Again, this is to disagree with the findings. The claimant made his feelings very clear during the hearing, both in evidence and submissions, and his evidence and submissions were fully considered before judgment was given.
7. 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  
Dated 14 August 2019

JUDGMENT SENT TO THE PARTIES ON  
4 September 2019

FOR THE TRIBUNAL OFFICE