



EMPLOYMENT TRIBUNALS

Claimant: Ms B Hochnowska

Respondent: City Tailors Trading Ltd
City Tailors Ltd
Mr Mehmet Aydin
Mr Burhan Aydin

Heard at: Bristol **On:** 27th September 2019

Before: Employment Judge P Cadney

Representation:

Claimant:

Respondent: Written Submission

Reconsideration Judgment

The judgment of the tribunal is that-

- i) The respondent's application to reconsider the Preliminary Hearing Judgment is refused.

Reasons

1. At a Preliminary Hearing on 5th September 2019 I determined that the claimant was a disabled person within the meaning of s6 Equality Act 2010 at all relevant times.
2. The respondent has sought a reconsideration of that judgment. The application must in any event be refused. Rule 71 requires that any such application must be copied to the other party. The respondent's application was made by email to the tribunal on 16th September 2019 but has not been copied to the claimant and is not therefore a valid application and must be refused.

3. However, I have gone on to consider it on its merits and concluded that even if it had been validly presented I would have refused it on the basis that there is no reasonable prospect of the original decision being varied or revoked.
4. The respondent firstly contends that it was not open to me, in the absence of medical evidence, to accept the claimant's evidence that she had first been diagnosed with a gallstone in Poland in 2012. In my judgement this is incorrect. Whilst any finder of fact must be careful about accepting unsupported oral evidence, if I consider it honest and reliable, which I do in this case, it is open to me to accept it.
5. Secondly the respondent contends that it was not open to me to find that the claimant had a progressive condition as there was no medical evidence to support the conclusion that "... in future the adverse condition is likely to become substantial"; and that the production of medical evidence is the "normal" route by which such a conclusion can be established. Again the respondent asserts that it is not open to me to reach this conclusion simply by accepting the claimant's evidence. However, as is set out at paragraph 4 of the judgment I accepted the claimant's evidence that she had suffered adverse effects from 2012 and that from 2015 they had begun to increase in frequency and severity. As "likely" in this context means "could well happen" I remain of the view that that in the light of that evidence, which it was open to me to accept and which I accepted, that it was open to me to conclude, even in the absence of medical evidence, that it "could well happen" that the adverse effects would increase in severity to the point at which they became "substantial", which itself means only more than minor or trivial.
6. In those circumstances I would in any event have refused the application for reconsideration.

Employment Judge P Cadney

Dated: 27th September 2019