



# EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Y

## RECONSIDERATION JUDGMENT

The claimant's application dated 30 May 2019 for reconsideration of the judgment sent to the parties on 29 May 2019 is refused.

### REASONS

1. I have undertaken preliminary consideration of the claimant's application for reconsideration of the judgment striking out her claims. That application is contained in a ten page document of 30 May 2019 with a number of attachments. I have also considered comments from the respondent dated 18 July 2019 and a further letter from the claimant of the same date<sup>1</sup>. References in square brackets (e.g. [25]) are references to paragraph numbers from the reasons promulgated with the judgment.

#### The Law

2. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).

3. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

4. In **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the EAT chaired by Simler P said in paragraph 34 that:

**“a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or by adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the**

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<sup>1</sup> Due to administrative oversight the material received on 18 July 2019 was not referred for my attention until September 2019. I apologise to the parties for the delay in this judgment.

**opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.”**

5. Finally, in common with all powers under the 2013 Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

### **The Application**

6. The majority of the points raised by the claimant miss the point. They rehearse matters of case management. Her claim was not struck out because of case management issues, as explained at [33] – [37].

7. Her case was struck out because she acted scandalously and unreasonably in alleging that the respondent’s witnesses had conspired to commit murder. The Tribunal did not think that a fair trial was possible in the light of that baseless allegation.

8. The claimant’s application for reconsideration repeats that allegation. She does offer (paragraph 47 of her application) to abandon and withdraw the allegation, but not because she no longer believes it to be true. She is simply asking the Tribunal to overlook it. That is not possible because of the reasons set out at [41], [42] and [45].

### **Conclusion**

9. Having considered all the points made by the claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The scandalous and unreasonable allegation of conspiracy to commit murder continues to prevent a fair trial being possible. The application for reconsideration is refused.

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Employment Judge Franey

20 September 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

29 October 2019

FOR THE TRIBUNAL OFFICE

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