



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Sebastian West

v

HHGL Limited

UPON APPLICATION made by letter dated **23 May 2019** to reconsider the judgment dated **29 May 2019** under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing

RECONSIDERATION JUDGMENT

1. The claimant's application to reconsider the Tribunal's decision dated 29 May 2019 is dismissed as there is no reasonable prospect of the original decision being varied or revoked.

Reasons

2. Details of the four claims made by the claimant and the sequence of events is set out in the judgment of 24 May, which was sent to the claimant on 29 May 2019. In essence, the claimant had been ordered by Employment Judge Lewis, on three occasions (11 January 2019, 20 March 2019, 29 April 2019) to provide further details of his discrimination claims (age, disability, sex discrimination).
3. On 29 April Employment Judge Lewis made the following Unless Order:

Unless by 8am on the 7th May 2019 the claimant complies in full with the ORDER sent on 20 March 2019, the claims of Age Discrimination, Disability Discrimination, Sex Discrimination will stand dismissed without further order.
4. On 7 May the respondent wrote to the tribunal asking that the claimant's discrimination claims be dismissed.
5. The claimant did not comply with the Unless Order and on 8 May 2019 Employment Judge Manley ordered the age discrimination claim to be struck out. This should have included all discrimination claims as set out in the Unless Order of 29 April 2019.

6. Unfortunately, there has been substantial delay in dealing with this reconsideration application as the file was mislaid. It was referred to me on 23 December. By then the tribunal bundle from 9 May had been destroyed.

Rule 71

7. An application for reconsideration shall be presented in writing (and copied to all parties) within 14 days of the decision, or reasons, being sent to the parties (Rule 71 Employment Tribunal rules). The Employment Judge shall consider any application made under Rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused and the parties informed of this (Rule 72).
8. The claimant's application was based on the fact that he was in hospital from January to April 2019 suffering prolonged depression and anxiety and he had been evicted so was in homeless accommodation. As a result, he said he was not in a position emotionally, physically nor financially to fulfil the tribunal orders.
9. At the preliminary hearing on 9 May the claimant said he was in hospital from January to 4 April 2019. He did not provide any supporting documents but these dates were accepted by the tribunal. When asked why he had not contacted the tribunal to say he needed more time, he said he thought he could not adjust the date.
10. The claimant attended the tribunal office on the morning of 23 May with documents showing when he was in hospital, saying he wanted to appeal. The clerk explained the process for appealing. The claimant later returned to the tribunal saying he wanted to request a reconsideration. He was advised that he had to copy this to the respondent before it would be considered. The application for a reconsideration was repeated in later correspondence with the Tribunal.
11. On 23 May the claimant provided two discharge notifications. The first showed an admission date of 15 January with a discharge date of 9 March 2019. The second showed a referral date of 8 April and discharge date of 18 April 2019. This stated that the claimant suffered severe depression, anxiety, post traumatic disorder. These documents were not provided at the Hearing on 9 May.
12. Thus, the claimant had nearly three weeks, after his discharge, and possibly time at an earlier stage (from 9 March), to provide the information ordered. He had also been in touch with Citizens Advice two weeks before the Preliminary Hearing and was told to call back but he did not do so.

Conclusion

13. There were three orders by Employment Judge Lewis asking the claimant to provide information about his discrimination claims. I find that the

claimant had been given every opportunity to provide the information which was missing from the original claim forms. The claimant was not in hospital for the whole period and he did not ask for further time explaining his ill-health.

14. The claimant had been in touch with Citizens Advice and could have called back as they suggested.
15. Without the information the respondent was not able to respond to the discrimination claims.
16. In relation to the redundancy pay claim, the claimant said he knew he was not entitled to this so he would not pursue it. This left the claim for arrears of pay but he said he did not have the information about what he was owed.
17. In relation to the protected disclosure claim, the claimant could not explain what the protected disclosure consisted of. The claimant referred to health and safety issues, such as equipment lying on the floor, but this was not set out in his original claims and he did not explain how this led to his dismissal or any detriment.
18. The application for reconsideration is refused.

Employment Judge C Palmer

Date: 14 January 2020

Sent to the parties on: 14 January 2020

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For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.