



EMPLOYMENT TRIBUNALS

Claimant: Mr M Kelly

Respondent: Allianz Management Services Limited

JUDGMENT

The claimant's application dated 9 December 2019 for reconsideration of the judgment sent to the parties on 15 October 2019 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. Rule 71 of the Employment Tribunals Rules of Procedure 2013 ("ET Rules") requires that an application for reconsideration is made within 14 days of the written record being sent to the parties. The claimant's application for a reconsideration was received on 9 December 2019 and was accompanied by a request for an extension of time. I wrote to the parties on 27 January 2020 inviting the claimant to make representations on this application for extension of time. The respondent replied by letter dated 31 January 2020. Having taken into account the representations of both parties, I decided that it is in the interests of justice, given the reasons set out by the claimant for the delay, for the reconsideration application to be considered by me outside the 14 day time limit.
2. The grounds for reconsideration are set out in rule 72 (1) of the ET Rules: *"An 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 (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. ..."*
3. The application for reconsideration appears to be made on the following grounds:
 - a) The respondent's response relating to the breach of contract element of the claim should be struck out (with the exception of issues arising after the claimant served notice) on the basis of ambiguity and confusion in respect to the contractual nature of their policies.
 - b) The respondent's response in relation to perception disability should

be struck out in its entirety, relying on comments the claimant contends were made by the respondent about his health.

- c) The respondent's response in relation to victimisation should be struck out; and
 - d) The Tribunal should consider all the submissions made in his application for reconsideration on the various findings of fact and conclusions reached
4. The hearing was the claimant's opportunity to give information, ask questions and raise issues, which he did. The claimant acknowledges that he had the opportunity to make the submissions he wanted to at the hearing. A request for reconsideration is not an opportunity for a party to seek to re-litigate matters; it does not entitle a party who is unhappy with or disagrees with the decision to re-open issues that were determined. A reconsideration is potentially a route for a party to raise new matters, but only where these have subsequently come to light after the hearing and where that party can explain why the matter was not raised before.
5. I have read through the application for reconsideration in detail. The claimant makes very many points about the findings of fact, and why he says that they should have led to a different conclusion. However strongly the points are made, there is nothing in the application for reconsideration which indicates that it is in the interests of justice to re-open matters. The substance of the claimant's application is to challenge findings of fact that were made or the conclusions that the Tribunal reached from those findings. The application is an attempt to re-litigate what was explored in detail at the hearing. The claimant's application does not identify any new matters but largely makes points already raised at the hearing itself.
6. It a fundamental requirement of litigation that there is certainty and finality. If conclusions are disputed on a point of law, i.e. if a party can identify flaws in the legal reasoning of the original decision, they are matters for an appeal, not a reconsideration.
7. There is no clear reason given as to why it would be in the interests of justice to reconsider. I have therefore exercised my discretion to refuse the application for reconsideration as there is no reasonable prospect of the judgment being varied or revoked. The claimant's application for a reconsideration is therefore rejected.

Employment Judge Flood

17 February 2020