



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs N Leeks

v

**Norfolk and Norwich University
Hospitals NHS Foundation Trust**

JUDGMENT

Under Rule 71(1) and (3) of the Employment Tribunal Rules of Procedure 2013

The claimant's application dated 14 August 2019 for reconsideration of the reserved judgment sent to the parties on 31 July 2019 is refused.

REASONS

1. The claimant has applied for reconsideration of the reserved Judgment and Reasons of the full tribunal dated 24 July 2019 and sent to the parties on 31 July 2019 following a two day hearing on 5 and 6 June 2019.
2. By rules 70-73 of the Employment Tribunals Rules of Procedure 2013, parties may apply for reconsideration of judgments made by a tribunal. The sole ground upon which a judgment may be reconsidered is that it is necessary in the interests of justice to reconsider it.
3. Rule 71 provides that an application must be sent within 14 days of the date on which the decision was sent to the parties. The application must be in writing and must set out why reconsideration of the original decision is necessary.
4. By rule 72(1), the application to have a decision reviewed shall be considered, where practicable, by the employment judge who made the decision, or who chaired the tribunal which made the decision. The judge shall refuse the application if he considers that there is no reasonable prospect of the decision being varied or revoked.
5. In her application of 26 pages, the claimant seeks a reconsideration of the tribunal's decision on the asserted grounds that can be more generally categorized as: a) bias; b) perversity; c) making incorrect findings of fact; and d) finding against the claimant generally.
6. Much of the claimant's application is seeking to challenge the factual conclusions reached by the tribunal on the evidence before it. A significant

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proportion of the application also relates to an assertion that the Judge in particular, was biased (namely that the Judge ignored evidence, did not take into account relevant law and was confused). That assertion appears to be basis that the tribunal reached findings of fact that happened to be more favourable to the respondent's case than that of the claimant.

7. Some considerable time after the Hearing, by way of emails dated 18 and 30 July 2019, the claimant sent additional documentation to the tribunal said to be further evidence that she wanted the tribunal to consider. The claimant also sent additional documentation with her application for reconsideration, requesting that this further material be considered. The material sent by email in July was not brought to my attention prior to the tribunal finalising its reserved Judgment and Reasons and was, thus, not taken into account. In any event, I am satisfied that it is not appropriate for the tribunal to consider this further documentation (including the additional material sent with the claimant's recent application) nor does it provide grounds for reconsideration of the tribunal's decision in the 'interests of justice' (r70 of the Employment Tribunal Rules 2013) for the following reasons.
8. Firstly this further documentation is not of particular relevance and would not be likely to materially alter the tribunal's assessment of the facts.
9. Secondly, save for the email of 26 June 2019 to the claimant from the Information Governance Manager of the HCPC (which, notably, was in response to an enquiry by the claimant emailed on 29 and 30 May 2019, thus pre-dating the tribunal Hearing), all of the material was available or could have been available for use at the trial on 5 and 6 June 2019. This cannot be said to have amounted to new evidence that could not have been reasonably known about or foreseen at the time of the final Hearing.
10. The claimant was professionally represented by legally qualified counsel, Mrs P Lewis, throughout the final Hearing. As referenced in paragraph 4 of the reserved Judgment and Reasons, the parties were informed by the tribunal service that the four day listing due to commence on 3 June 2019 could not proceed due to lack of judicial resource, but the Hearing went ahead at the insistence of both parties on 5 and 6 June 2019 (following a preliminary hearing on 4 June 2019 before EJ Henry). There was no application by either side to seek any further postponement. On the contrary, the parties and their representatives indicated to the tribunal at the start of the Hearing that the matter was ready for trial and could be heard and completed in the two available days. It is also noteworthy that on the first day of the Hearing, Mrs Lewis (mistakenly referred to as Mrs "Harris" in paragraph 5 of the Reasons) made an application on behalf of the claimant to have additional documentation included in the Bundle which was indeed added. If the documentation subsequently produced was relevant in any way an application should have been made to have it included as evidence in the Hearing Bundle or a postponement of the Hearing to enable it to be obtained and/or reviewed.
11. The tribunal reached its unanimous findings of fact and Judgment on the basis and in the light of all the evidence presented at the Hearing. Having

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carefully considered the claimant's application for reconsideration I am satisfied that it is no more than an attempt by the claimant to re-litigate, without proper cause, an entirely reliable decision that happened not to be of her liking.

12. The fact that the decision went against the claimant and that she was unsuccessful in persuading the tribunal that the respondent had directly discriminated against her or victimised her in breach of the Equality Act 2010, is no basis for the tribunal reconsidering its decision.
13. I have therefore, for the reasons given above, decided to reject this application for reconsideration. I do so because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge Wyeth

Date: 4 October 2019

Judgment sent to the parties on
21/2/20

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For the Tribunal office