



## EMPLOYMENT TRIBUNALS

**Claimant:** Miss L Hughes

**Respondent:** Progressive Support Limited

# JUDGMENT

The claimant's application, dated 1 November 2019, for reconsideration of the Judgement sent to the parties on 18 October 2019 is refused pursuant to Rule 72(1) because there is no reasonable prospect of the original decision being varied or revoked.

## REASONS

### Delay in Response

1. The claimant's application for reconsideration was unfortunately not communicated to me until 3 June 2020. The exact reasons for this delay are not known to me, other than there was an administrative problem, for which I offer apologies on behalf of the Tribunal Service.

### Reasons for Refusal

2. The claimant's application for reconsideration raised a single ground for reconsideration. That ground is that the claimant asserts that the application of the provision, criterion or practice ("PCP") which the claimant relied on as the basis for her indirect discrimination claim was not in dispute, and, as such, the claimant had not been given the opportunity to make submissions regarding the application of that PCP.
3. As recorded in paragraph 31 of the written reasons for the decision, the entire first day of the hearing was spent dealing with outstanding case management and clarification of the issues. This was necessary because the parties had not properly complied with applicable case management orders. These discussions sought to ensure (as summarised at paragraph 31 of the reasons provided):
  - 3.1. that there was clarity about precisely what was being claimed;
  - 3.2. that the issues in dispute between the parties were properly identified and understood;

- 3.3. the documents that both parties were intending to rely on during the hearing were available and had been disclosed; and
- 3.4. that copies witness statements, which had not been disclosed by the parties in accordance with the Case Management Orders, were available.
4. The substantive hearing did not commence until the second listed day.
  5. The claimant's representative specifically confirmed during this initial discussion the exact scope of the PCP the claimant relied on for her indirect discrimination claim. The claimant's representative put this in writing, both at the outset of the substantive hearing and then in written submissions after evidence had been presented. The application of the PCP which the claimant relied on in her claim formed part of this initial discussion.
  6. The express agreement of both parties that they were in a position to proceed with the hearing commencing from the second day is recorded at paragraph 32 of the written reasons produced. No application to adjourn or postpone the hearing to allow the parties to further prepare was pursued by either party.
  7. Given the discussion, including relevant issues, on the first day, and the confirmation of readiness given by the claimant's representative after this discussion, there is no reasonable prospect of the original decisions being varied or revoked on the ground that the claimant did not have the opportunity to make representations. Accordingly, the claimant's application is refused.
  8. No other grounds were identified in the claimant's application for reconsideration.

Employment Judge Buzzard  
4 June 2020

JUDGMENT SENT TO THE PARTIES ON

5 June 2020

FOR THE TRIBUNAL OFFICE