



EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT

V

RESPONDENT

Ms S McLeary

One Housing Group Ltd

Heard at: London South
Employment Tribunal

On: 3, 6, 7, 8, 9, 10 and
13 January 2020

Before: Employment Judge Hyams-Parish

Members: Mr A Kabal and Mr R Shaw

JUDGMENT

UPON an application for reconsideration, there are no reasonable prospects of the judgment sent to the parties on 18 March 2020 being varied or revoked.

REASONS

1. Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides that an Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a judgment where it is necessary in the interests of justice to do so. On reconsideration, the judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record of the judgment was sent to the parties. In this case a reserved judgment was sent to the parties on 18 March 2020.
3. A letter by the Claimant seeking a reconsideration was received by the Tribunal on 2 April 2020. On the face of it, therefore, the application is

technically out of time. I have, however, exercised my discretion to extend time given the very short period between when the 14 days expired and when the application was received.

4. Under Rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows a Tribunal a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. The discretion must be exercised judicially, which means having regard not only to the interests of the party seeking the reconsideration, but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
5. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. Essentially, this is a reviewing function in which I must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient that a Claimant simply disagrees with the decision. If I consider that there is no such reasonable prospect, then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing.
6. The application for reconsideration is three pages long. Having read the application carefully, I have struggled to understand the basis upon which the Claimant believes reconsideration should be granted. At the beginning of her letter, the Claimant writes: *"We would like to ask the Judge to reconsider the ruling as the steps did not remove the disadvantage to the claimant as follows.."*. The letter then goes on to say the following (sic): *"As it is felt that the ruling focused on the disadvantage that was determined to have avoided was after the duty arise appose to the disadvantage the claimant was at, at the time the duty arise to for reasonable adjustment arise. it does not consider the lack of auxiliary aid, E.g. equipment, providing supplementary or additional help and support in any interim. She pleaded for help. This impacted on the claimant substantially. The disadvantage was not avoided at the time duty arise."*
7. The Claimant appears to complain that the reasonable adjustments did not take away the disadvantage suffered by her and that her workload was no different to her colleagues; secondly that the reasonable adjustments were only made after the duty arose. She supports these complaints by, in effect, taking issue with the factual findings made by the Tribunal. Indeed much of the application for reconsideration is, in effect, the Claimant stating where she disagrees with the findings made rather than pointing to an error made by the Tribunal.

8. The Claimant refers to the case of **The Home Office (UK Visas & Immigration) v Ms P Kuranchie UKEAT/0202/16** albeit she does not state expressly the principle from the case she wishes to rely on. Aside from dealing with a case of someone with dyslexia, this case endorsed the approach taken by the Court of Appeal in **Burke v The College of Law and anor 2012 EWCA Civ 87, CA** where it was said that a holistic approach should be adopted when considering the reasonableness of adjustments in circumstances where it takes a number of adjustments, working in combination, to ameliorate the substantial disadvantage suffered by the Claimant.
9. In the Claimant's case, it was very much necessary to take a holistic approach to the obligation to make reasonable adjustments, when looking at each complaint, not least because there were a number of different adjustments that were made by the Respondent over a period of time. In her application for reconsideration, the Claimant sets out why she believes the reasonable adjustments made were not sufficient.
10. As I have said, the application essentially takes issue with a number of conclusions or findings of fact in the judgment. No procedural irregularity or error of law on the part of the Tribunal is identified. The findings of fact were made after considering all of the evidence. The fact that the Claimant points in her application to evidence already considered by the Tribunal that she says is supportive of her case, is not sufficient to allow an application for reconsideration. In the course of this hearing lasting 7 days, the Tribunal considered lots of documentary and oral evidence and it would be wrong to consider now, items of evidence in isolation, when at the hearing the Tribunal considered this evidence against all the other evidence, before reaching its decision.
11. I am satisfied that the Tribunal reached findings of fact based on the evidence and applied the law correctly to those facts in reaching its decision. The interests of justice do not require there to be a reconsideration of the judgment. Accordingly, the application for reconsideration fails and stands dismissed.

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Employment Judge Hyams-Parish
5 June 2020