



EMPLOYMENT TRIBUNALS

Claimant: Reverend J G Hargreaves

Respondent: Evolve Housing + Support

RECONSIDERATION JUDGMENT

(1) The application for reconsideration of the Judgment dated 24 June 2020 (Employment Tribunals Rules of Procedure 2013 – Rules 70 to 73) is refused for the reasons set out below.

REASONS

1. Judgment was issued in this case on 18 May 2020, and an amended judgment was sent out under the 'slip rule' (Rule 69) on 11 June 2020. This was necessary because the judgment section did not reflect the reasoning in paragraph 114, in relation to the issue set out in 1.2 (a), 5.2 (a) and 12.2 (a) of the list of issues. Issue 1.2 reads:

“Did John Deakin carry out the investigation into the claimant’s grievances in a biased and partial or otherwise detrimental manner, including by him [(a)] questioning the claimant, during the grievance process, about social media posts by the claimant about religious matters; [(b)] by not speaking to witnesses the claimant had asked to be spoken to as part of the investigation into his grievance; and [(c)] in relation to the grievance outcome?”

Similar wording is used in relation to the other issues. This is how the case was put at the liability hearing and this is the case the respondent prepared and responded to.

2. Paragraph 114 of the judgment reads, in relation to 1.2(a):

As for (a), a claimant cannot succeed in relation to both a harassment claim and a direct discrimination claim on the same set of facts – see S212(1) and (5) Equality Act 2010. Section 212(1) provides that ‘detriment’ (for the purposes of s39) does not, subject to subsection (5) (which is not relevant here), include conduct which amounts

to harassment. What follows would only therefore be relevant if our findings in relation to harassment were subsequently found to be wrong.

3. An application has been made by the claimant dated 24 June 2020, for a reconsideration of that amendment to the judgment. In effect, the result of this would be that the claimant's claim would succeed in relation to the allegation of harassment and of direct discrimination, in relation to issue 1.2(a). This could only happen if the facts on which those conclusions were based were different.
4. Rules 70, 71 and 72 of the Employment Tribunal Rules of Procedure 2013 provide as follows:

RECONSIDERATION OF JUDGMENTS

Principles

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again.

Application

71. Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

Process

72. (1) 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. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.

5. I have carefully considered the contents of the application for reconsideration. I have considered that under Rule 72(1) and decided that there is no reasonable prospect of the decision being varied or revoked. A hearing is not therefore necessary. The reasons are as follows.
6. The claimant argues, in relation to issue 1.2 (a) that "*there were in fact two 'sets of facts' in play: 1. Me being questioned by Jon Deakin and 2. Jon Deakin searching my personal online material.*"

7. He argues that in the conclusion on this issue in relation to harassment, no mention is made of the online search by Mr Deakin of the claimant's online material. But that is mentioned in the conclusions in relation to direct discrimination. Therefore, the direct discrimination claim should succeed.
8. The claimant's reconsideration application is based on a false assumption. The facts are set out in the facts section of the judgment. Those facts were applied to the conclusions in relation to the harassment allegations and direct discrimination allegations as a whole. No questioning of the claimant about his online material would have taken place at the grievance hearing, had there been no search of that material in the first place. The search of the material was therefore part and parcel of the material facts in relation to the conclusions on both the harassment and direct discrimination allegation regarding this issue. As the claimant accepts, he cannot succeed in both the harassment and direct discrimination claims on the same facts.
9. For these reasons, the application for reconsideration is refused. The amended judgement dated 11 June 2020 still stands.

Employment Judge Andrew James

Date: 28 July 2020

JUDGMENT SENT TO THE PARTIES ON

28/07/2020.....

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE