



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Ms R Gafari Tijani

v

Respondent

The House of Commons Commission

REFUSAL OF RECONSIDERATION

(Rule 72(1) (Schedule 1, Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013)

- 1 The Claimant brought a claim of unfair dismissal which was heard by me on 19-20 February 2020. I gave my decision dismissing the claim at the Hearing and the Judgment was sent to the parties the next day. On 9 March 2020, following the Claimant's request for written reasons, these were sent to her. It appears that on 22 March 2020, the Claimant made an application for reconsideration of the decision. I became aware of this today, 7 September 2020.
- 2 The application is refused. I consider that there is no reasonable prospect of the original decision being varied or revoked. The Claimant makes a number of points in support of the application, and I deal with each in turn:
 - a) The suggestion that the Respondent dismissed her to avoid making her redundant in future was not the main thrust of her argument.

I agree (although this assertion was set out in the Claimant's witness statement and Mr Akindutire addressed me on it during his submissions), but I found in any case that this was not the reason for dismissal. The Respondent was required to, and did, prove that the reason was the Claimant's conduct.

- b) The Respondent did not explain to the Claimant how her lateness had an operational impact or knock-on effect.

I have dealt with this in my decision (at paragraphs 4.18 and 5.1). However, I also found (at paragraph 4.11) that after she was given a final written warning, it was made very clear to the Claimant what was expected of her and that if her timekeeping did not improve, the next stage of the disciplinary process could lead to her dismissal. Further, at 5.3, I found that the Claimant did know, or ought reasonably to have known, of the effect her lateness would have and was having on colleagues, and (for example) that this was why she came in even when she says she was unwell and, at 5.7, that I did not consider it incumbent on a reasonable employer to have to produce evidence of an actual correlation between potential misconduct and actual impact on its business.

- c) There were no complaints about the Claimant's work/fulfilment of her duties and responsibilities.

I have dealt with this at paragraphs 4.1, 4.18, 5.11 and 5.13. The reason why she was dismissed was her lateness and nothing to do with complaints or the standard of her work. The Claimant was on a final written warning for the same misconduct for which she was later dismissed. That was not outside the band of reasonable responses.

- d) The Claimant was treated less favourably than five colleagues.

My record of proceedings indicates that I asked the Claimant who she was saying had not been dealt with for lateness. The Claimant's representative said that she had asked her Trade Union representative for his bundle but he had told her it had been destroyed. HR had also not assisted her, but she was referring to six people.

I have noted at paragraph 5.4 of my decision that the Claimant was unable to give me any names of potential comparators; Ms Steffans, by contrast, was able to go through the Intellikey reports and tell me precisely who else had been disciplined, by identifying five people whose names were not challenged by the Claimant. It was then put to Ms Steffans that those colleagues continued to come in late (although the Claimant did not put any specific instance to Ms Steffans), but Ms Steffans replied that this was not her recollection. I accepted her evidence in this regard for the reasons set out at paragraph 5.6 of my decision.

So far as I can see, it is mere speculation on the Claimant's part that these five colleagues were treated more leniently than she was in not materially different circumstances. If she knew who they were and had evidence of them continuing to be late to work on particular days even after having been disciplined, she could have applied for a focused disclosure order. If she had any such knowledge or evidence, it was not presented to me, nor was an application made for such an order.

- 3 In the circumstances, having considered the application under Rule 71 and having concluded that there is no reasonable prospect of the original decision being varied or revoked, I refuse the application and confirm my original decision that the claim is not well-founded and therefore fails.

EMPLOYMENT JUDGE

7 September 2020
Sent to the parties on

08/09/2020

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for Office of the Tribunals