



EMPLOYMENT TRIBUNALS

Claimant: Mr C Lander
Respondent: Incodia International Limited
Before: Employment Judge Elgot

DECISION ON CLAIMANT'S APPLICATION FOR RECONSIDERATION RULES 70-73 EMPLOYMENT TRIBUNALS (CONSTITUTION AND RULES OF PROCEDURE) REGULATIONS 2013

1. The Claimant applies for reconsideration of the Judgment dated 13 July 2020 sent to the parties on 21 July 2020. The Judgment refuses the application of the Claimant to join Messrs Huckle, Smith and Lock as individual Respondents to his disability discrimination claims.

REASONS

1 The Employment Judge REFUSES the application for reconsideration on the ground that there is no reasonable prospect of the original decision being varied or revoked. The reasons for this decision are as follows:-

2 The parties are referred to the Reasons in paragraphs 2.1-2.4 of the original Judgment. The Respondent does not dispute or contend that it is not fully vicariously liable for any discriminatory acts which are found to have been carried out by these three employees of the Respondent.

3 The Respondent which is a large organisation with significant resources has now confirmed to the Claimant that it has policies of indemnity insurance in place to cover its liabilities for employees' actions towards third parties.

4 The Claimant points out the mistake of the Employment Judge in referring to additional insurance policies which he says are inaccurately described in the original Judgment. In fact there are also additional policies to cover the personal liabilities of each of the three senior employees named above. The fact that the three employees also have personal indemnity does not, in my judgment, alter the balance of prejudice described in paragraphs 2.6-2.9 of the original Judgment.

5 There is no cogent evidence that the Respondent is or is likely to become financially un-viable to the extent that it will be unable to pay any award made to the Claimant particularly given its insurance position.

6 The Claimant refers to claims in the Amended Particulars of Claim which it says are made against Messrs Huckle, Smith and Lock under ss 110-112 Equality Act 2010. Those matters were not specifically brought to the attention of the Employment Judge at the Preliminary Hearing as part of the Claimant's oral submission.

7 Upon examination of the Amended Grounds of Claim there is at paragraph 82 (of 108 paragraphs) a statement that '*I claim against Chris Huckle, Alec Smith and Allan Lock under ss110-112 EqA*' but there are no details of the said claim or claims. Paragraph 83 (18 subsections) is deleted in its entirety. Paragraph 84 proceeds under a new heading '*Discrimination arising from Disability(s15EqA)*'. There are therefore no particulars of the claim/s under ss 110-112.

8 The Claimant has referred me to, for example, paragraph 89.9 at he states that the claims at 89.3,89.4,89.7,88.9(h) and (i) are '*also brought against Chris Huckle and Alec Smith*' but he does not identify or plead in what way those claims, for example under the general (paragraph 89) heading of Harassment are also said to be examples of instructing, inducing or causing contravention of the 2010 Act or aiding contraventions in such a way as would amount to a personal liability of the three employees in question.

9 In other words, in all the examples given, the Claimant only repeats his allegations against the Respondent and alleges that the three employees or any one or two of them are also accused of those same allegations of unlawful discrimination. The Claimant gives no examples of the particular personal acts required to be shown under ss110-112 over and above what is generally alleged against the Respondent.

10 In all the circumstances I am satisfied that the balance of prejudice is the same as is set out in the original Judgment which has no reasonable prospect of being revoked or varied. The application for reconsideration FAILS.

**Employment Judge Elgot
Date: 15 September 2020**