Case No: 1304294/2020

EMPLOYMENT TRIBUNALS

Claimant	**Respondent**
Mr T Hancox	**National Farmers Union**

DECISION

In exercise of my powers contained in Rule 72 Employment Tribunals Rules of Procedure 2013 I refuse the claimant's application for reconsideration on the grounds that there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. On 4 September 2020 the Claimant submitted an application for reconsideration of the Judgment. The application was in the form of letters sent by email.

2. The power to reconsider a judgment is contained in Rule 70 to 73 Employment Tribunals Rules and Procedure 2013. The rules enable a tribunal to reconsider a judgment where it is necessary in the interests of justice to do so. Rule 72 provides that an Employment Judge shall consider the application. If the judge considers that there is no reasonable prospect of the decision being varied or revoked she shall refuse the application.

3. The letters amounting to the application for consideration run to 13 pages. Much of the correspondence details the Claimant's analysis of the Respondent's evidence, matters on which he gave detailed submissions at the interim relief hearing and which I have already considered. In deciding this reconsideration application I have read my Judgement carefully and referred to my own detailed notes of the submissions made. I have due regards to those submissions when reaching my Judgement.

4. I have distilled the grounds for the application as best I can below.

    a) I failed to consider 'false statements' made by the Respondent's witnesses (also said by the Claimant to be perjury),

b) I referred in my judgment to an incorrect chronology of events and/or failed to consider the chronology of events,
c) That my judgment allows 'unscrupulous Employers to target … disabled employees',
d) That I interrupted the Claimant during his submissions, causing him to have insufficient time to make the points he wished.

5. I deal with each of the grounds above following the numbering above as follows:-
   a) I had a large bundle of documents and 5 witness statements from the Respondent. My role was to make a broad assessment, it was not to find the truth or otherwise of the witness evidence which was untested, it being an application for interim relief decided on submissions. I acknowledged sympathy with the Claimant's case in my judgment, him being suspended the very week in which he made what he relies on as protected and qualifying disclosures. Nevertheless the Respondent produced evidence demonstrating the Claimant's behaviour had been less than satisfactory before any such disclosures were made, I found therefore that the threshold of interim relief was not met. I did refer in my judgment to the fact the Claimant referred me at length to what he believed to be inconsistences in the Respondent's witness evidence. Of course he may make these points at the substantive trial.
   b) I did indeed consider the chronology of events and expressed some sympathy, as stated above and in my judgment, for the Claimant's position. The Claimant appears to make a particular point about a text he sent to a colleague and my mistaken reference to it being sent on 27 January 2020, when he in fact he sent it on an earlier date. I was using the date supplied in the chronology to the bundle and on the document in that bundle. Even if the Claimant is correct, it is the timing of that text message (during suspension and against management instruction not to contact colleagues) and the content of that message that I was referring to in relation to the Respondent's submissions. Any correction that might need to be made to the date of the message does not affect my conclusions as regards the application for interim relief.
   c) My judgment was in relation to an application for interim relief. I was not deciding matters at a substantive hearing, I was not required to consider whether the Respondent had behaved in an 'unscrupulous' way. I am satisfied the Claimant did not meet the higher burden of proof required. This is not to say he cannot pursue these allegations at the substantive trial.
   d) As set out in my judgment I allowed the Claimant a lengthy break to prepare his submissions of 2 and a half hours after he first had the benefit of hearing Counsel for the Respondent's submissions. After the Claimant had been addressing me for 2 hours we had a break and he did indeed say he would be another 2 hours which would have taken the hearing to past 6pm. I enquired with the Respondent's Counsel and Instructing Solicitor if they would be prepared to sit until 5 pm (6pm being too late for all and 5pm being later than usual) and they agreed. I gave the Claimant a further 20 minute break to collect his thoughts. The Claimant therefore had almost 3 hours to make submissions and did not contend this time was insufficient. I am satisfied I had heard sufficiently from both parties to reach the decision I was required to make.

6. For the reasons above I refuse the Claimants application for reconsideration.

Employment Judge Hindmarch

Date: 14 September 2020