



## EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Ms C Payawal

and

**Respondent**

Frimley Health NHS Foundation Trust

### DECISION ON APPLICATION FOR RECONSIDERATION

**Under Rules 70-73 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**

1. There is no reasonable prospect of the judgment being varied or revoked on the grounds set out in the Claimant's application for reconsideration. The application is refused.
2. Reasons for this decision are attached.

### REASONS

#### Background

1. Following a full merits hearing held at Reading on 25 and 26 September 2019 (Employment Judge Vowles sitting alone) the Claimant's claims of Unfair Dismissal and Wrongful Dismissal were dismissed. The Judgment was sent to the parties on 31 October 2019.
2. On 6 November 2019 the Claimant made an application for written reasons and on 13 November 2019 also made an application for reconsideration of the Judgment. Unfortunately those applications were overlooked and not actioned by the Tribunal until a reminder was sent by the Claimant's representative on 24 June 2020. The applications were then forwarded to the Employment Judge on 27 October 2020. There was a then a further delay in locating and typing the recording of the reasons for the Judgment. The written reasons were then forwarded on 8 December 2020 to the Employment Judge who signed them on 10 December 2020.

#### Preliminary consideration

3. Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 -

#### *Rule 70 Principles*

*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.*

#### *Rule 71 Application*

*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.*

#### *Rule 72 Process*

*(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 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. ...*

4. In Trimble v Supertravel Ltd [1982] ICR 440, the Employment Appeal Tribunal said that on an application for review (now reconsideration), if a matter has been ventilated and properly argued during the course of Tribunal proceedings, then any error of law falls to be corrected on appeal and not by way of review.
5. In Newcastle-upon-Tyne City Council v Marsden [2010] ICR 743, the Employment Appeal Tribunal said that dealing with a case justly in accordance with the overriding objective in regulation 3 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (now rule 2 of schedule 1 to the 2013 regulations) required the application of recognised principles, in particular the importance of finality in litigation, since justice required an equal regard to be paid to the interests and legitimate expectations of both parties and that a successful party should in general be entitled to regard a Tribunal’s decision on a substantive issue as final, unless there are exceptional circumstances.

#### Decision

6. In the application for reconsideration the Claimant is seeking to re-argue matters which were raised and considered by the Tribunal at the full merits

hearing. Decisions on the substantive issues were made and dealt with in the Tribunal's Judgment and Reasons.

7. The Claimant disagrees with the findings, but there is nothing new raised in the application which would merit reconsideration.
8. The interests of justice do not require reconsideration in this case. There is no reasonable prospect of the original decision being varied or revoked on the grounds set out in the application.

*I confirm that this is my decision on the application for reconsideration in the case of Ms C Payawal v Frimley Health NHS Foundation Trust case no. 3335078/2018 and that I have signed and dated by electronic signature.*

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Employment Judge Vowles

Dated: 10 December 2020

Sent to the parties on:

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For the Tribunals Office