



EMPLOYMENT TRIBUNALS

Claimant: Miss L Thomas

Respondent: Devon County Council

Heard at: Exeter **On:** 21 October 2020

Before: Employment Judge Midgley

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the Judgment dated 21 October 2020 which was sent to the parties on 21 November 2020 ("the Judgment"). The grounds are set out in her letter dated 4 January 2020. That letter was received at the Tribunal office on 5 January 2021.
2. The written reasons for the Judgment were requested by the Employment Appeal Tribunal on 18 November 2020, following the claimant's appeal against the Judgment. The written reasons were sent to the claimant on 29 December 2020.
3. The claimant applied for reconsideration, having received the reasons, on 4 January 2021. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on

which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.

4. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
5. The grounds relied upon by the claimant are not identified in the letter containing the application. However, in a letter sent by the claimant to the Tribunal which was received on 18 November 2020 in which she indicated her intention to appeal, the claimant wrote “I do not agree with the outcome of the case... I would like a retrial ... Devon County should not have got away with this. I was unfairly treated and I want to appeal.” I therefore treat those as the grounds of the application for reconsideration.
6. The matters raised by the claimant in arguing that I should exercise my discretion to extend time to enable her to present her claims were considered in the light of all of the evidence presented to the Tribunal before I reached my decision on 21 October 2020, and are reflected in the written reasons. The claimant is unhappy with that decision but has not identified any ground on which to suggest it was wrong.
7. The Employment Appeal Tribunal (“the EAT”) in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/60 the EAT decided that the interests of justice ground of review does not mean “that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order”. This is not the case here. In addition, it is in the public interest that there should be finality in litigation, and the interests of justice apply to both sides.
8. Accordingly, I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge Midgley
Dated 7 January 2021

JUDGMENT SENT TO THE PARTIES ON
18th January 2021
By Mr J McCormick

FOR THE TRIBUNAL OFFICE