



EMPLOYMENT TRIBUNALS

Claimant: Ms D Shillingford

Respondent: Barts Health NHS Trust

JUDGMENT ON APPLICATION FOR RECONSIDERTION

The claimant's application dated 18th December 2020 for reconsideration of the judgment sent to the parties on 7th December 2020 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because

1 The letter of request and accompanying detailed document do not set out any basis for suggesting that the judgment should be reconsidered in the interests of justice as they state that the claimant felt the decision was wrong and proceed to reargue the case.

2 The grounds upon which a judgment may be reconsidered are set out in rule 70 of Schedule 1 to the **Employment Tribunals Constitution and Rules of Procedure) Rules 2013** as follows:

“70 A Tribunal may, either on its own initiative.....or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.”

3 The previous rules gave 5 grounds including administrative, error, a party not receiving notice of proceedings, a decision in the absence of a party, new evidence having become available and interests of justice requiring a review. As indicated above, only one ground was carried forward to the 2013 Rules namely the interests of justice.

4 It is an underlying principle of public policy that in judicial proceedings there should be finality in litigation. Reconsiderations may be seen as a limited exception to this principle that employment tribunal decisions should not be reopened and relitigated. What is clear is that this is not a method by means of which a disappointed party to proceedings can get 'a second bite of the cherry'. In *Stevenson-v-Golden Wonder Ltd 1977 IRLR 474 EAT*, Lord McDonald said of the old review provisions that they were '*not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before*'.

5 The essence of the ground is to provide an opportunity for reconsideration where something has gone wrong with the procedure which involves a denial of justice of something of that order. It is a way of correcting errors within the proceedings or some unfairness in process.

6 The details set out by the claimant are as to the evidence heard by the full tribunal and the arguments advanced during the hearing. They amount to an attempt to persuade the Tribunal that different findings should have been made and different conclusions reached. The claimant has endeavoured to argue again in detail the aspects in relation to which she alleged her treatment by the respondent and her dismissal were unfair. There is no material on the basis of which I consider that there are any prospects of establishing that the interests of justice require the Judgment should be reconsidered. The claimant had every reasonable opportunity to present her case with the evidence and arguments referred to in the application.

7 It was clear that the Tribunal acceded to requests for more time and was sympathetic to the claimant's personal circumstances. The hearing extended over a number of days and over a lengthy timescale as outlined in paragraphs 2 to 11 of the judgment which explain the circumstances. This ultimately enabled the claimant significant opportunity to review her case and evidence and put before the tribunal full details of her case and all of her arguments. There was no basis for delaying the final days of the hearing any further as implied in the claimant's letter and nor was there any application made to do so.

8 Accordingly, as nothing has been demonstrated upon which the interests of justice require the Judgment to be considered, there is no reasonable prospect of success and the application is refused.

Employment Judge Speker OBE DL
Date: 15 January 2021