



# EMPLOYMENT TRIBUNALS

Claimant: Ms Sian Reid

Respondent: ADSI Ltd

## DECISION FOLLOWING RECONSIDERATION

### Response to C's reconsideration application

1. In an application dated 24 April 2021, the Claimant applies for reconsideration of the Judgment which was sent to the parties on 12 April 2021. Under Rule 72 of the 2013 Employment Tribunal Rules, the application is to be considered by the Employment Judge who chaired the full panel which made the original decision. If the Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked, then the application shall be refused; and the parties informed of the refusal.
2. I have carefully considered the various points made by the Claimant in her reconsideration application. I do not consider that any of them have any reasonable prospect of prompting the original decision to be varied or revoked. The Final Hearing on 18 and 19 March 2021 was not cut short. Each party had sufficient time to summarise its case. The Tribunal also had sufficient time to deliberate on the second day of the hearing and reach its conclusion as to the outcome of the case.

### Points made about documents

3. In support of her application, the Claimant seeks to introduce new evidence which was not included within the agreed bundle for the Final Hearing. No good reason has been provided as to why these documents were not within the agreed hearing bundle. I do not consider that there is any merit in the Claimant's application that these documents should be introduced once the Judgment has been issued.
4. The Claimant also argues that the Respondent did not disclose personal data including high sales targets achieved, staff appraisals etc and the correct call log. However, the Claimant did not make an application to the Tribunal for this data to be disclosed at any point before the start of the hearing. It is now too late to make such an application once the case has concluded.

Risk assessment

5. The Tribunal found as a fact that a maternity risk assessment was carried out. There was evidence to support such a finding, namely page 99 of the bundle. The Claimant has not advanced any credible basis for the Tribunal to conclude that this factual finding was wrong.

Tiredness caused by pregnancy

6. The Claimant now argues that “a dip in performance was likely due to pregnancy fatigue”. However, at paragraph 16 of the Reasons, the Tribunal noted “The file note did not record the Claimant suggesting the tiredness was attributable to her pregnancy.” The Tribunal did not find that the Claimant suggested at any point that her tiredness was the result of her pregnancy. Therefore the factual basis of this challenge is incorrect.

Annual leave for ante natal appointments

7. In the reconsideration application, the Claimant seeks to challenge the factual finding made, and the conclusion reached about the Claimant’s antenatal appointments. This is what the Tribunal concluded (at paragraph 50):

It was her choice to take a day’s leave on each occasion. She did not ask Mrs Rand if she could have the part of the day off work that was necessary to attend the appointment. Had she done so, we consider that Mrs Rand would have allowed her to take this time off work without using annual leave.

8. The Claimant has not provided any sufficient evidential basis for the Tribunal to revisit this factual finding and conclusion. The Claimant’s application amounts to an attempt to reargue this point based on the same evidence that was before the Tribunal or which could have been before the Tribunal.
9. In addition, the Claimant seeks to challenge the Tribunal’s factual finding that Mr Spreadborough’s email to the Claimant in response to her email of 28 May 2019 was the last email in the chain, which the Tribunal found at paragraph 13. Yet the Claimant has not produced any further emails nor shown that the Tribunal was clearly wrong to find as it did on this point.

Procedural breaches

10. The Tribunal found that there were respects in which the Respondent did not follow its own procedure, at paragraphs 19 and 26 of the Reasons. As explained by the Tribunal in those Reasons, and in particular at paragraph 46, these failures were not a potential basis for inferring discrimination based on the Claimant’s pregnancy. The Claimant had confirmed at the start of the disciplinary hearing that she was happy to proceed, notwithstanding the short notice. Insofar as the Claimant now makes further points about the procedure that was followed, this does not raise an arguable case that the Tribunal should infer discrimination.

Less favourable treatment in comparison to Ryan Shepherd

11. The Tribunal has explained in paragraph 47 of the Reasons why there was no less favourable treatment than that received by Ryan Shepherd. The points made by the Claimant in the reconsideration application were points that were raised or could have been raised by the Claimant at the conclusion of the evidence. There is no reasonable prospect that the full Tribunal Panel will overturn this finding.

Audio recording of disciplinary hearing

12. The manner in which the Tribunal listened the audio recordings was appropriate. The Claimant did not challenge it during the Final Hearing. Having listened to the relevant section, the Tribunal was not persuaded that the audio showed that Ms Rand was laughing during Mr Shepherd's disciplinary hearing. It would not be appropriate to listen to two audio recordings at this stage.

Witness evidence of Mr Spreadborough

13. In her reconsideration application, the Claimant seeks to argue that Mr Spreadborough had lied during the appeal hearing. The Tribunal was entitled to take the view it did of Mr Spreadborough's evidence. The points raised by the Claimant do not indicate an arguable case that the Tribunal should revise its view of Mr Spreadborough's evidence in the light of the further points now made.

Conclusion

14. For the reasons given, there is no reasonable prospect of the original decision being varied or revoked.

**Employment Judge Gardiner  
Date: 2 August 2021**