



# EMPLOYMENT TRIBUNALS

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## BETWEEN

**Claimant**

**Respondent**

**Mrs A Agbonkhina**

**Solent NHS Trust**

**Employment Judge Matthews**

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## **Judgment on Application for Reconsideration**

Acting in accordance with rule 72 of the Employment Tribunals Rules of Procedure 2013 (the “Rules”) the Employment Judge refuses Mrs Agbonkhina’s application for a reconsideration of the Judgment sent to the parties on 17 August 2021 (the “Judgment”). The Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked.

## **Reasons**

### **Introduction and applicable law**

1. The Employment Judge must consider this application by reference to rules 70, 71 and 72 of the Rules. So far as they are applicable they read as follows:

#### ***“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.*

#### ***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.*

## **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 already 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.*

*(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.”*

2. On 17 August 2021 the Judgment was sent to the parties. On 31 August 2021, within the fourteen day time limit, Mrs Agbonkhina's application for reconsideration was received by the Employment Tribunals.

## **Conclusions**

3. Mrs Agbonkhina's application is set out in 36 numbered paragraphs in a 9 page document headed "Reconsideration of the Judgement made on 17<sup>th</sup> August 2021 for the Hearing on the 5<sup>th</sup> and 6<sup>th</sup> August 2021". The Employment Judge will refer to the numbered paragraphs for ease of reference.

1, 2 and 36 - These paragraphs are narrative and do not set out any ground for reconsideration.

3-5, 21 and 22 (in part) - These paragraphs appear to be an application for reconsideration of the Judgement of Employment Judge Fowell on the subjects of disability and the making of a deposit order sent to the parties on 24 September 2018. With this application, Mrs Agbonkhina has included a copy of an application for reconsideration sent to Employment Judge Fowell on 9 October 2018. That was the occasion to raise these issues. Employment Judge Matthews cannot consider or re-open them.

6 - As recorded in paragraph 2 of the Judgment, the updated schedule of loss was available to the Tribunal.

7 - The entire hearing bundle was available to the Tribunal before it made a decision.

8-19, 23-30, 32 and 33-35 - These paragraphs revisit the Tribunal's findings of fact and/or conclusions from those findings of fact. The Employment Judge has considered each in turn and does not consider that any of them found a reasonable prospect of the original decision being varied or revoked.

22 (in part) and 31 - In these paragraphs Mrs Agbonkhina puts forward a claim of victimisation by reference to section 27 of the Equality Act 2010. Employment Judge O'Rourke noted in his Orders sent to the parties on 11 April 2019 that Mrs Agbonkhina had made no such claim but could apply for an amendment. As far as Employment Judge Matthews is aware, no such application for amendment was made. Therefore, there was no such claim before the Tribunal nor was it mentioned at the hearing on 5 August 2021.

4. In the Employment Judge's view Mrs Agbonkhina's application raises no grounds to support any reasonable prospect of the Judgment being varied or revoked.

Employment Judge Matthews  
In Chambers  
Date: 13 September 2021

Judgment sent to the parties: 18 October 2021

For the Tribunal Office