



EMPLOYMENT TRIBUNALS

Claimant: Mr F Hombarume

Respondent: Tees Esk and Wear Valleys NHS Foundation Trust

JUDGMENT

The claimant's application dated 6 October 2021 for reconsideration of the judgment of the Tribunal that was sent to the parties on 23 September 2021 is refused.

REASONS

1. By an email dated 6 October 2021, the claimant sought reconsideration of the tribunal's Judgment in this matter that was sent to the parties on 23 September 2021. By that judgment the tribunal dismissed the claimant's complaints that the respondent discriminated against him and unfairly and wrongfully dismissed him.
2. A tribunal has power to reconsider any judgment where it is necessary in the interests of justice to do so: Rule 70.
3. The claimant's application for a reconsideration under r 71 must first be considered by me as the judge who chaired the full tribunal which made it. If I consider there is no reasonable prospect of the original decision being varied or revoked, I must refuse the application. If I consider that there is some reasonable prospect of the original decision being varied or revoked I must seek a response from the respondent and seek the views of the parties on whether the matter can be determined without a hearing. The application is then to be determined by the full tribunal, whether it is dealt with at a hearing or on the papers.

4. In deciding whether it is necessary to reconsider a judgment in the interests of justice, the tribunal must seek to give effect to the overriding objective to deal with cases fairly and justly. That includes taking into account established principles. Those established principles mean the tribunal must have regard not just to the interests of the party seeking the review, but also to the fact that a successful party should in general be entitled to regard a tribunal's decision on a substantive issue as final and to the public interest requirement that there should, as far as possible, be finality of litigation. As the court stressed in *Flint v Eastern Electricity Board* [1975] IRLR 277, QBD 'it is very much in the interests of the general public that proceedings of this kind should be as final as possible.'

5. As Simler P said in *Liddington v 2Gether NHS Foundation Trust* UKCAT/0002/16/DA:

"A request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration."

6. The basis of the claimant's application, in essence, is that he disagrees with the Tribunal's assessment of the evidence and he is seeking to reargue his case. The claimant was ably represented by Mr Ekinu at the hearing. The points made now by Mr Hombarume are substantially the same as those made by Mr Ekinu at the hearing (and/or by Mr Hombarume himself in his evidence) and which, to the extent we considered them relevant, we took into account when reaching our decision. The claimant is of course entitled to disagree with the tribunal's assessment of the evidence. That is not a proper basis on which to overturn the judgment, however.

7. There is nothing in the grounds advanced by the claimant that could lead the tribunal to vary or revoke its decision. I consider there is no reasonable prospect of the original decision being varied or revoked. It follows that I must refuse the application.

Employment Judge Aspden

Date 7 October 2021