



EMPLOYMENT TRIBUNALS

Claimant: Mr David Lane

Respondent: Ministry of Defence

JUDGMENT

The claimant's application dated 3 July 2019 for reconsideration of the judgment sent to the parties on 29 June 2019 is refused.

REASONS

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

1 Employment Judge Woffenden understands the claimant to be saying that the six bullet points in his application are those which he was unable to make when she gave her oral judgment because she had told him he could not attend, due to his anxiety.

2 Employment Judge Woffenden did not tell him this. The claimant was experiencing difficulties in speaking. He had prepared a written skeleton argument (headed 'Statement') so she told him he did not have to attend.

3 However, even if the claimant had made those points before her, they would not have changed her decision.

4 Point 1 -Paragraph C4 of The Guidance is as stated by the claimant and was reflected in paragraph 11 of the Reasons.

5 Points 2 to 5 -Employment Judge Woffenden understands the claimant to be saying that he would have submitted that because the respondent accepted the substantial adverse effect of the mental impairment of anxiety began in October 2017 and was linked to work place stressors and the evidence he had provided showed that when that effect began the respondent did not follow its own procedures, she would therefore have concluded or inferred that it was likely that the effect would last at least 12 months because of the respondent's history of not addressing his workplace stressors.

6 Employment Judge Woffenden would not have reached that conclusion or drawn that inference ;the substantial adverse effect began in October 2017, it was expressly linked by the claimant's GP to work related stress (see paragraph 6.10 of the Reasons) and the claimant was absent from work. That effect would not then have appeared likely to last for at least 12 months.

7 Point 6 -the respondent did not submit that as a legal proposition that substantial adverse effects are not considered to be long term until they have lasted more 7 months or half a year ;the submission made (which she accepted as set out in paragraph 27 of the Reasons) was that she could infer from the length of absence from work that had already occurred that it was likely that the substantial adverse effects of the mental impairment of anxiety would last for at least 12 months in total within Schedule 1 paragraph 2 (1) (b) Equality Act 2010.

Employment Judge Woffenden

Date 24/02/2020