



EMPLOYMENT TRIBUNALS

Claimant: Mr C Powell

Respondent: Jaguar Land Rover Limited

JUDGMENT

In exercise of powers contained in Rule 72 of the Employment Tribunals Rules of Procedure 2013 (“ET Rules”), the claimant’s application of 14 February 2021 for reconsideration of the judgment sent to the parties on 9 February 2021 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The claimant’s complaints of unfair dismissal, direct disability discrimination, discrimination arising from disability and victimisation were dismissed by a judgment delivered orally on 9 February 2021 following a 7-day hearing on 1- 5 & 8-9 February 2021. This was confirmed in a written judgment sent to the parties also on 9 February 2021.
2. Rule 71 of the ET Rules requires that an application for reconsideration is made within 14 days of the written record being sent to the parties. The claimant made an application for a “review” of the judgment on 14 February 2021. The Tribunal wrote to the claimant on 27 March 2021 asking him to clarify whether he was in fact making an application for a reconsideration. The claimant’s reply sent on 28 March 2021 suggested that this was the case. The application for reconsideration is therefore made in time.
3. Rule 72 (1) of the ET Rules provides:

“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. ...”
4. The application for reconsideration appears to be made on the following grounds (in summary):
 - a. There was evidence contained in the Bundle of Documents that were disclosed late by the respondent after the date ordered for that Bundle to be finalised;
 - b. There was bias in the decision making;
 - c. There was a mistake in applying the law;

d. The decision was unfair and perverse and did not seem to be that could have been made taking into account the claimant's disabilities; and
e. The claimant was unrepresented at the final hearing and had limited knowledge of employment law.

5. The hearing was the claimant's opportunity to give information, ask questions and raise issues, which he did. He had the opportunity to ask questions of all witnesses and advance all relevant arguments. The documents the claimant refers to at 4.a above were largely e mails sent to and from the claimant himself, were clearly relevant to the issues in dispute and were necessary for the fair hearing of the claim. No objection was made to such documents being referred to during the hearing by the claimant.

6. The claimant as a litigant in person was given appropriate assistance and support throughout the hearing and the Tribunal was careful to take steps throughout to ensure that the parties were on an equal footing in pursuance of the overriding objective. The issues between the parties had been explored in detail in advance of the hearing during a full day preliminary hearing for case management and so were clear to both parties from the outset.

7. The Tribunal gave all the issues full consideration and prepared its decision and reasons in detail. The claimant is, perhaps not surprisingly, unhappy with the outcome of the Tribunal as the decision was not in his favour.

8. The claimant seeks challenge findings of fact that were made or the conclusions that the Tribunal reached from those findings. The application is an attempt to re-litigate what was explored in detail at the hearing. A reconsideration is potentially a route for a party to raise new matters, but only where these have subsequently come to light after the hearing and where that party can explain why the matter was not raised before. The claimant's application does not identify any new matters.

9. It is not the purpose of reconsideration to allow a party to dispute a determination that a party disagrees with and it is a fundamental requirement of litigation that there is certainty and finality. If conclusions made are disputed with regard to a whether a correct interpretation of the law was made, they are matters for an appeal which the claimant is able to make to the Employment Appeal Tribunal. These are not matters for a reconsideration request.

10. There is no clear reason given in the reconsideration request of 14 February 2021 or the subsequent e mail of 28 March 2021 as to why it would be in the interests of justice to reconsider the judgment. I have therefore exercised my discretion to refuse the application for reconsideration as there is no reasonable prospect of the judgment being varied or revoked.

Employment Judge Flood
29 April 2021