



EMPLOYMENT TRIBUNALS

Claimant: Mr M Scott

Respondent: Kenton Schools Academy Trust

JUDGMENT

The claimant's application dated **21st December 2021** for reconsideration of the Judgment sent to the parties on **8 December 2021** is refused.

REASONS

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

1. I have read the application from the claimant dated 21st December 2021 and the response from the respondent dated 11th January 2022.
2. The claimant cites three grounds for the application to reconsider:-

Disability Discrimination: section 15 EqA 2010

- i. Ground 1: The Pitt ET (the ET) erred in law in that, upon considering the issue of proportionality under section 15 EqA, it failed to carry out the necessary balancing act between the disadvantage to C of the unfavourable treatment and the legitimate aim of R.

Disability Discrimination: failure to make reasonable adjustments, section 20 EqA 2010

- ii. Ground 2: The ET erred in concluding that R, in dismissing C, had not failed to make a reasonable adjustment

- iii. Ground 3: The ET erred in failing to adequately explain and set out its reasons which led it to conclude that dismissal was a proportionate means of achieving R's legitimate aim.
3. Rule 70 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 permits an Employment Tribunal to reconsider any judgment where it is in the interests of justice to do so.
 4. Rule 71 requires an employment Judge to consider an application, and if there are no reasonable prospects of the Judgment being varied, the application shall be refused.
 5. In Outasight VB Ltd v Brown 2015 ICR D11, EAT. HHJ Eady observed that the phrase 'interests of justice' allows an Employment Judge a wide discretion. However, this discretion must be exercised judicially,

'which means having regard not only to the interests of the party seeking the review or reconsideration but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.'
 6. In AB v Home Office EAT 0363/13, the EAT held that where the issues in a case have been dealt with and reasons given for the decision, even if they are inadequate or incomplete, if there is no reasonable prospect of the Judgment being varied the Employment Judge should not order a reconsideration.
 7. The claimant has not raised a new issue or pointed to new evidence which may impact the decision of the Tribunal. He is asking for the Tribunal to simply reconsider all the matters it has already determined.
 8. In relation to Ground 1, the Tribunal considered all the issues raised by the claimant's representative, and they set them out in paragraphs 33-39. In particular, the 'balancing exercise' is at paras 37-49.
 9. Turning to Ground 2. The adjustment sought by the claimant was that the respondent should have imposed a sanction short of dismissal. The respondent's evidence was that the malpractice alone would have justified dismissal (Paragraph 53). It did not state that it was required to dismiss. The reasons for the Tribunal conclusions are set out in paragraphs 54-56.
 10. Ground 3; the reasons for the decision are set out in the Judgment. The 'balancing exercise' is set out in full in paragraphs 37-49.
 11. This is a clear case of the claimant attempting to relitigate his case. That is not the purpose of Rule 70.

Employment Judge AE Pitt

Date 17th January 2022