



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Miss L Coltman

v

Respondent

Staff Management Limited t/a Active Assistance

Employment Judge Vowles

DECISION ON APPLICATION FOR RECONSIDERATION

Under Rules 70-73 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013

1. On 23 September 2021 Employment Judge Vowles (sitting alone) made a Judgment at a Public Preliminary Hearing. Reasons were given orally at the hearing. The Judgment was sent to the parties on 3 November 2021.
2. On 29 September 2021 the Claimant made an application for written reasons for the Judgment.
3. On 12 October 2021 the Claimant made an application for reconsideration of the Judgment.
4. Written reasons have been sent to the parties.
5. There is no reasonable prospect of the Judgment being varied or revoked on the grounds set out in the application for reconsideration. The application is refused.
6. Reasons for this decision are attached.

REASONS

Background

1. A one day Public Preliminary Hearing was held on 23 September 2021. Three of the Claimant's claims were dismissed for lack of jurisdiction due to failure to comply with time-limits, and other claims were allowed to proceed to a previously listed full merits hearing on 1-9 December 2021. The reasons for this decision

were given orally at the hearing and a Judgment was issued on 3 November 2021. Written reasons have been provided at the request of the Claimant. The Judgment and the written reasons must be read alongside this decision.

2. A case management order was also made in respect of the full merits hearing.
3. On 12 October 2021 the Claimant made an application for reconsideration of the Judgment.

Relevant Law

4. Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 -

Rule 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.

Rule 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.

Rule 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 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. ...*

5. In Trimble v Supertravel Ltd [1982] ICR 440, the Employment Appeal Tribunal said that on an application for review (now reconsideration), if a matter has been ventilated and properly argued during the course of Tribunal proceedings, then any error of law falls to be corrected on appeal and not by way of review.
6. In Newcastle-upon-Tyne City Council v Marsden [2010] ICR 743, the Employment Appeal Tribunal said that dealing with a case justly in accordance with the overriding objective in regulation 3 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004 (now rule 2 of schedule 1 to the 2013 regulations) required the application of recognised principles, in particular the importance of finality in litigation, since justice required an equal regard to be paid to the interests and legitimate expectations of both parties and that a successful party should in general be entitled to regard a Tribunal's decision on a substantive issue as final, unless there are exceptional circumstances.

Decision on Application for Reconsideration

7. The Claimant's application for reconsideration was stated to be on the grounds that she was unable to properly present her case to the Tribunal at the hearing due to anxiety and that she did not fully make use of her documents and that she was unable to comply with time limits due to her poor mental health at the relevant times.
8. Upon reviewing the decisions and reasons for decisions made at the hearing on 23 September 2021, I am satisfied that the Claimant had ample opportunity to present her case and did so ably and adequately. Full account was taken of her evidence about her mental health problems at the relevant times and the effects upon her failure to comply with time limits, see in particular paragraph 24 of the written reasons for the decisions.
9. I am satisfied that the Claimant's mental health was considered at the hearing at which the Claimant was a litigant in person.
10. The application for reconsideration does not contain sufficient grounds to grant such an application. There is nothing in the application which is sufficient to cast doubt upon the findings in the judgment and reasons sent to the parties. I am not persuaded that there is any new evidence, or any procedural mishap which would justify reconsideration. The application seeks to re-argue matters which were dealt with at the hearing. The interests of justice do not require reconsideration in this case.
11. There is no reasonable prospect of the original decision being varied or revoked on the grounds set out in the application. The application is refused.

Case Number: 3324356/2019(V)

I confirm that this is my decision on the Claimant's application for reconsideration in the case of Miss L Coltman v Staff Management Limited t/a Active Assistance case no. 3324356/2019 and that I have dated and signed by electronic signature.

Employment Judge Vowles

Date: 24 November 2021

Sent to the parties on:
10 February 2022

For the Tribunals Office