



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss C Graves

**Respondent:** Chestnut Homecare Limited

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The application of the claimant by email of 18 March 2022 for reconsideration of the Judgment sent to the parties on 10 March 2022 is refused under rule 72(1) on the ground there is no reasonable prospect of the decision being varied or revoked.

### REASONS

1. By rule 71 a party may apply to the Tribunal in writing for a Judgment to be reconsidered and by rule 70 a Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so. A Tribunal may vary, revoke or confirm a decision upon reconsideration.
2. By email of 18 March 2022, the claimant has applied for a reconsideration of the Judgment. She has sent extracts from some publications about the duties of courts and tribunals.
3. The claimant says that she was hardly offered any support or reasonable adjustments throughout the whole process including the final hearing. She states she had no note taker, was rushed into asking questions or told there was not time to ask questions which were relevant to her case, that the judge was repeatedly frustrated about the claimant not understanding questions and needed them rewording or explanations for them. She said Mr Gibbons was chuntering away in the background and even though the judge said something he kept moving around and placed himself in front of Lesley, a witness of the respondent and she looked at him for answers. She disputes a number of the findings and said the Tribunal has used her memory against her.
4. After the preliminary hearing on 19 July 2021, Employment Judge Evans provided a full written breakdown of the case and issues. The claimant had sent a number of emails to the Tribunal but at no stage, including at the final hearing, had she said that she did not understand them or that she disagreed with them.

5. At paragraph 3 of the Case Management Orders following the preliminary hearing on 19 July 2021, Employment Judge Evans made an order for adjustments to be made at the future hearings in the light of the claimant's dyslexia and other health conditions. He stated that the claimant would need longer to give her evidence and make any submissions and that she would need longer breaks than a typical unrepresented claimant. He stated the time he had allocated for the final hearing had taken into account of these adjustments, in other words it had been allocated extra hearing time. It is clear that Employment Judge Evans made the adjustments upon the assumption the claimant was a disabled person, even though that had not been accepted by the respondent at the time.

6. At the commencement of the final hearing the Judge took the parties slowly and carefully through the claims and issues and the form the hearing would take by way of evidence and closing address. He informed the claimant that she should inform him if she needed any help during the proceedings, particularly in view of her dyslexia. He said there would be regular breaks, but if the claimant or any other witness required more breaks or longer time for the breaks they should inform him. He informed the claimant that when she questioned the witnesses called by the respondent, she should let him know if she needed any assistance. The Tribunal provided the adjustments identified in paragraph 3 of the Case Management Order.

7. The claimant understood and complied with the case management orders. She sent a number of written communications to the Tribunal but did not state, at any stage, that the adjustments ordered by Employment Judge Evans were inadequate or that she required others. At no stage did she suggest that she required a note-taker, and so no assessment and determination was made about whether that would have been appropriate adjustment. The Tribunal is unlikely to make an adjustment which is not requested.

8. During the hearing the Tribunal made further adjustments. The claimant asked to be allowed to refer to her handwritten notes during her cross-examination. Although this was opposed and is not normally allowed, the Tribunal ruled in favour of the claimant. Mr Gibbons, one of the respondent's witness, also has dyslexia and the Tribunal ruled all witnesses would be allowed to refer to notes if they requested to do so. The Tribunal admitted further evidence in the form of text messages which the claimant had not disclosed, but which she asked to adduce on the second day of the hearing.

9. The Tribunal assisted the claimant when she questioned the witnesses of the respondent. The Judge asked some questions which were relevant to the issues, but which the claimant had not put as part of her case. He also clarified some of the matters she raised and posed them to the witness in the form of a question. Occasionally the Judge asked the claimant to move to the next question when she repeated matters or suggested that some questions she put to one witness might better be put to another. He occasionally asked about the relevance of a question to an issue. This was necessary to ensure the case concluded within the time allocated and was fair to the witnesses. The Judge spent a significant amount of time seeking to ascertain if monies were due from the respondent. Although Employment Judge Evans had allocated additional time for the adjustments the case did not conclude within the timeframe and the decision had to be reserved. That reflected the

commitment to affording longer to accommodate any difficulties the claimant may have had. At no stage was the Judge frustrated, nor did he rush the claimant.

10. The Tribunal noticed that Mr Gibbons was making some verbal reactions to the evidence and the Judge informed him he must stop. He did so. He did move seats, but that took him further away from the claimant. He did not influence the evidence of the witnesses called by the respondent.

11. The remainder of the request for reconsideration amounts to a criticism of the Tribunal's findings. The claimant is seeking to reargue her case. That is not a proper ground to reopen the decision. Otherwise there would be no finality to proceedings. She had every opportunity to present evidence and argue her case at the hearing and it is not necessary in the interests of justice to revoke or vary this decision.

12. In these circumstances there are no reasonable prospects of success in the grounds for reconsideration and the application is refused.

13. The claimant has asked for permission to appeal the decision. An appeal must be made directly to the Employment Appeal Tribunal. The Tribunal cannot give or refuse permission to appeal.

Employment Judge D N Jones

Date: 6 April 2022