

mf



EMPLOYMENT TRIBUNALS

Claimant: Mr P Hall

Respondents: (1) Transport for London
(2) Mr C Walker
(3) Mr H Carter

Before: Employment Judge Reed

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Employment Tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1 At a preliminary hearing on 10 November 2021, I determined that the claimant, Mr Hall, could not take forward his claim that he had been subjected to detriments for making a protected disclosure. By letter dated 21 November Mr Hall sought a reconsideration of that determination.

2 I should like to begin by apologising for the delay in dealing with his application, which was due to an administrative oversight.

3 The dismissal of Mr Hall's relevant claim was due to the application of the principle of res judicata. Specifically, Mr Hall had commenced earlier proceedings in which he asserted he had been mistreated for making what appeared to be the same disclosure. Those proceedings had been taken solely against Transport for London (TfL) whereas these proceedings had two further respondents. Generally, res judicata will only apply where the parties in each set of proceedings are identical.

4 I considered that there was such a close connection between TfL and the other respondents that the principle did indeed apply here.

5 At the hearing it was agreed that it was asserted in the present proceedings that there had been one protected disclosure (by Mr Hall to his MP). In his letter of 21 November, however, Mr Hall says there were others. By implication he also says that

since those other disclosures were not the subject of the previous claim, the principle of res judicata can have no application in relation to them.

6 Under Rule 70 of the Employment Tribunal Rules of Procedure 2013 a tribunal may reconsider any judgment where it is necessary in the interests of justice to do so.

7 I recorded in my original judgment that the relevant facts (i.e. relevant to my determination) were not disputed. The hearing proceeded on the basis that there was indeed only one purported protected disclosure. Mr Hall effectively agreed that that was the case. In any event, a natural reading of the claim document would lead one to that conclusion.

8 The power to reconsider a judgment does not exist to give a party a “second bite at the cherry”. Mr Hall was at liberty at the hearing to argue that his claim indicated that other disclosures were made. He did not do so.

9 In those circumstances I take the view that there is no reasonable prospect of the judgment being varied or revoked. It is therefore refused.

Employment Judge Reed

11 May 2022