



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mr J Hackney

and

James Glancy Design Limited

JUDGMENT

The Claimant's application for reconsideration of the Judgment dated 25 January 2022 is refused.

REASONS

Introduction

- 1 In determining this application, I have referred to the documents provided at the Preliminary Hearing, I have re-read my Judgment and I have read the following documents submitted in respect of the application:
 - 1.1 The Claimant's application, dated 4 February 2022, paginated 1-15;
 - 1.2 The Respondent's email dated 11 February 2022;
 - 1.3 The Claimant's letter dated 29 March 2022;
 - 1.4 The Respondent's letter dated 12 April 2022.
- 2 For the avoidance of doubt, and as set out in correspondence from the Tribunal, I did not receive the Claimant's application of 4 February 2022 at that time. I was provided with the application on 7 April 2022.
- 3 I also note that whilst the Claimant's application refers to a folder of 'Supporting Documents' with references beginning 'SD', I have not seen this folder and it does not appear to be attached to the application.
- 4 I heard a Preliminary Hearing in this case on 13 January 2022 and provided a judgment dated 25 January 2022. My Judgment decided

that the Claimant was not disabled as defined by Section 6 of the Equality Act 2010 and, accordingly, I dismissed the Claimant's claim for disability discrimination.

- 5 The Claimant's remaining claims are due to be heard at a final hearing listed on 5 - 7 September 2022.

The Application

- 6 Under Rule 70 of the Tribunal Rules (ETs (Constitution & Rules of Procedure) Regs 2013, Sch 1), the Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so.

- 7 Pursuant to Rule 71 an application for reconsideration shall be presented in writing within 14 days of the date on which the written record of the original decision was sent to the parties. Whilst I did not receive the application until recently, I am entirely satisfied this application should be treated as having been presented in time.

- 8 Rule 72 provides that if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Overall I see no reasonable prospect of the judgment being varied or revoked in this case, on the basis of the interests of justice.

- 9 Having considered the documents set out in paragraph 1 above, the conclusions reached in the Judgment have no realistic prospect of being changed on reconsideration. This is for the following reasons:

- 9.1 The Claimant's application is lengthy and raises a number of issues. I have considered the application in its entirety. I note that the Claimant entirely disagrees with my Judgment. Whilst I am sorry to read how the Claimant says the Judgment has affected him, I am not satisfied that these matters raises a reasonable prospect of the Judgment being varied or revoked, on the basis of the interests of justice.

- 9.2 The Claimant refers to being at a 'huge disadvantage' because of issues with receiving the Tribunal bundle. However at no stage of the Preliminary Hearing did the Claimant tell me that he felt unable to proceed with the hearing because of any difficulties with the bundle. Rather, the Claimant was able to particularise documents which he said were not included within the bundle and he sent those to the Tribunal, for my consideration, by way of a separate email.

- 9.3 It is also noted that the Preliminary Hearing had been scheduled for a date in June 2021 and preparation had taken place in advance of that hearing date, including the compilation of a folder of relevant documents. Accordingly, the Preliminary Hearing in January used the folder prepared the previous summer with the addition of a number of pages by way of update.

- 9.4 The Claimant now refers to having further documents within a folder entitled 'Supporting Documents'. As noted above, I have not seen that folder. The parties had a full opportunity to provide the Tribunal with the entirety of the relevant documentary evidence at the Preliminary hearing. This included sending further documents by email on the day of the hearing. There seems no reason why all documentation could not have been provided at that date and neither party informed the Tribunal that there was further evidence which remained outstanding on that date. It is important and in the interests of justice for there to be finality in litigation and to legal proceedings. It is contrary to that principle for parties to have multiple opportunities to provide additional evidence in a piecemeal way and following Judgment being given.
- 9.5 The Claimant refers to not having taken his medication at the time of the Preliminary Hearing. He also makes references to him predicting that he would 'panic and flounder' and that he informed the ET of this when he was asked if he required special help. He also says that it was 'clear to all' that he was a 'wreck' in the Preliminary Hearing (see paragraph 34.1 of the application for reconsideration). I note that the Claimant participated throughout the hearing and spoke in a cogent and clear way. He was able to navigate the technology required for a remote hearing and sent emails to the Tribunal on the day. A friend, Mr Hall, joined him at the hearing. At no stage did the Claimant present in a way that suggested he was unable to participate appropriately in the hearing and, at no stage, did the Claimant identify difficulties such that his ability to participate was affected.
- 9.6 In his application, the Claimant refers to further witness statements. At paragraph 13.7 of his application, he states that a witness statement from Marc White can be provided if required and on the final page of his application, the Claimant refers to there being 'one further contemporaneous witness statement' which will be forwarded to the Tribunal when the Claimant is in possession of it. I repeat my comments as to the necessity to provide all relevant evidence in accordance with the directions of the Tribunal and for consideration by the Tribunal at the hearing. The Claimant was aware of the need for witness statements and had provided statements for himself and his witness, in attendance on the day of the hearing. It was open to the Claimant to have further witnesses attend the Preliminary Hearing if he wished.
- 9.7 The Claimant refers to the Tribunal not seeing his questions to Mr O'Dowd. For the avoidance of doubt, I was provided with copies of Mr O'Dowd's supplemental letters dated 11 and 12 January 2022. In particular, the letter of 12 January 2022 sets out the Claimant's questions in bold text following which Mr O'Dowd sets out his opinion in underlined text.

- 10 Accordingly, whilst I entirely understand that the Claimant considers my decision on the issue of disability is wrong, I refuse his application as there is no reasonable prospect of the original decision being varied or revoked.

Employment Judge Harrington
Date: 19 April 2022

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