



EMPLOYMENT TRIBUNALS

Claimant: Mrs R Nicely

Respondent: Whittington Health NHS Trust

UPON APPLICATION made by letter from the Claimant dated 28th October 2021 to reconsider the judgment dated 16th September 2021 under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing:

JUDGMENT

The application for a reconsideration is refused as it is not in the interests of justice.

SUMMARY REASONS

1. Whilst this judgment could be issued without reasons in order to assist the parties I have issued some explanation for the reasons why the application is refused and I have had regard to the Employment Tribunal Rules 70-72 when considering this application.
2. The Judgment of this Tribunal dated 16th September 2021 was sent to the parties on 21st September 2021.
3. By email dated 28th October 2021 the Claimant made an application for a consideration of the judgment out of time without any explanation for the delay.
4. The matter was not referred to me until 14th January 2022 and upon reviewing the application it appeared that there was an error as identified in the use of the word “heard” and this individual did not give evidence but had only provided a statement. The evidence was not material and the case did not turn on it.
5. The parties were written to on 8th February 2022 and were invited to make written representations on the application and it was indicated that the matter would take place without a hearing as at that time my preliminary

view was notwithstanding the time it may be in the interests of justice to reconsider the matter given the error. The respondent agreed to the matter proceeding without a hearing and I have not seen any objections from the claimant.

6. I have considered the matter on the papers. Having considered those written representations I do not consider that it is in the interests of justice to reconsider my judgment and even if it was it would make no material difference to the outcome. The judgment would still be the same and would remain unchanged.
7. The error identified whilst unfortunate, does not impact on the findings or conclusions made. They could be corrected by reissuing the judgment and changing the word heard to include a reference to having read a statement from that witness instead but for the reasons already given in summary I do not consider this necessary.
8. What was not known by the Tribunal until the respondent raised this in its written representations dated 28th February 2022 was that the claimant had appealed to the Employment Appeal Tribunal on this ground and this was rejected by His Honour Judge Wayne Beard by letter dated 25th January 2022. A higher Tribunal has already adjudicated that the ground of appeal has no reasonable prospect of success. It is again unfortunate that there have been delays in the administration of this referral and the reconsideration.
9. The application was significantly out of time such that it could have been rejected at the outset and this Tribunal cannot reconsider its own judgment on its own initiative on the same point to correct the error.
10. It is not in the interests of justice to reconsider the matter. The decision was unaffected and all parties need closure so the application is refused.

Employment Judge **KING**

_____ 06.07.22 _____

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE