



EMPLOYMENT TRIBUNALS

Claimant: Miss J Fisher

Respondent: Department for Work and Pensions

Judgment was announced at a hearing on 23 October 2020 and sent to the parties on 15 January 2021. The claimant has made an application dated 5 November 2020 for reconsideration of that judgment. That application was refused. The claimant made a further reconsideration application (“the second application”) by e-mail sent on 13 June 2022. That application was also refused. The claimant has now submitted a third reconsideration application, referred to here as “the third application”.

JUDGMENT

The third application is refused. This means that the judgment still stands.

REASONS

Relevant law

1. Rule 70 of the Employment Tribunal Rules of Procedure 2013 provides the tribunal with a general power to reconsider any judgment “where it is necessary in the interests of justice to do so”. The making of reconsideration applications is governed by rule 71.
2. Rule 72(1) states that an employment judge must consider any application made under rule 71. The rule continues:

“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 already been made and refused), the application shall be refused...”

The third application - grounds

3. The third application advances essentially two grounds for reconsidering the judgment. These are:
 - 3.1. There is new evidence that tends to show Ms Regan’s responsibility for DLA at a time when the claimant was working there and allegedly bullied.
 - 3.2. There is new evidence showing that some of the sickness absences for which the claimant was dismissed were actually the result of criminal behaviour on the part of her colleagues. According to the claimant, the evidence tends to

show that the claimant was injected and drugged without her consent, and subsequently forced to take sickness absence, all as part of a deliberate effort on her colleagues' part to set her up to be dismissed.

Conclusions

4. The first ground appears to be substantially the same as the second application. I have refused the second application and given reasons for that decision. There are no special reasons why it should be considered again.
5. The second ground has no reasonable prospect of causing the original judgment to be varied or revoked. This is for two reasons:
 - 5.1. I first of all assume that, if the judgment were revoked, and the matter were re-listed for a hearing, the claimant could prove that the alleged criminal behaviour had actually occurred. The claimant's argument would have to be that Ms Regan and Ms Qureshi could not reasonably have dismissed the claimant for her absences, because they should have realised that if the criminal behaviour stopped, the claimant's attendance at work would improve. But the claimant would never succeed in that argument. Ms Regan and Ms Qureshi could only base their decisions on the information available to them, following such investigations as it was reasonable for them to carry out. There was no evidence put forward at the disciplinary or appeal hearings that the claimant had been drugged or injected, or that her sickness absence had been forced on her. Nor was there anything said that would cause them to suspect that this is what had happened. Their decision would still have been a reasonable one.
 - 5.2. I also think that it is highly unlikely that the claimant could prove that the criminal behaviour happened in the first place. It is a very serious accusation and would need to be established by highly persuasive evidence. The photographs do not come close to proving that she was injected without her consent.

Disposal

6. Having concluded that there is no reasonable prospect of the judgment being varied or revoked, I must refuse the third reconsideration application.

Employment Judge Horne

20 July 2022

SENT TO THE PARTIES ON

27 July 2022

FOR THE TRIBUNAL OFFICE