



EMPLOYMENT TRIBUNALS

Claimant: Miss Gray

Respondent: The Care Quality Commission

At: Leeds (in chambers) **On:** 26 September 2022

Before: Employment Judge Knowles

JUDGMENT UPON RECONSIDERATION

1. The Claimant's application made under the cover of letters dated 31 August 2022 and 2 September 2022 for reconsideration of the Judgment sent to the parties on 18 August 2022 is refused.

REASONS

1. The Claimant has made an in-time application for reconsideration of the Judgment that I reached which was sent to the parties on 18 August 2022.

2. The Claimant is requesting that I reconsider my Judgment in which I determined that the Claimant's claims of direct belief discrimination, pregnancy discrimination and indirect sex discrimination be struck out under Rule 37 of the Employment Tribunals Rules of Procedure 2013 because they have no reasonable prospect of success.

3. In relation to the Judgment concerning her claim of indirect sex discrimination, the Claimant is stating that I made the Judgment on the presumption that the Claimant requires a vaccination to work in a position involving entering care homes.

4. The Claimant states that I did not hear evidence to that effect.

5. I accept that point. However, it is clear from her claim form and from the documentation submitted at the preliminary hearing that the Claimant was required to enter care homes as part of her duties. The point was not disputed by the Claimant at the hearing on 25 July 2022. The Claimant does not dispute that in her application for reconsideration, rather she states that the evidence has not been heard. I did not require evidence to be heard to determine the Respondent's

application to strike out the Claimant's claims under Rule 37, nor does Rule 37 require me to hear evidence.

6. The Claimant raises further points concerning her claim of indirect sex discrimination which are quotes from published documents concerning vaccination and pregnancy. These do not, in my view, undermine in any way the conclusions I reached in paragraphs 133 to 138 of my judgment dated 18 August 2022.

7. In relation to my Judgment concerning pregnancy discrimination, the Claimant refers to matters which are again not within the protected period. The Claimant had made points about trying to conceive at the hearing on 25 July 2022. However, a period within which a person is trying to conceive is not a protected period. The Claimant conceded at the hearing on 25 July 2022 that she never told the Respondent prior to any of the asserted detriments that she was pregnant.

8. In relation to her claim of direct belief discrimination, the Claimant refers me to another case under case number 1800837/2022 and informs me that the fact that another similar discrimination claim is being heard in that case which demonstrates that the Respondent may have discriminate against others with similar beliefs. The Claimant appears to be referring to a preliminary hearing in another case but I have no information about that matter nor would any first instance determination be binding upon me. I heard the Respondent's application on the basis of the information before me in this case, not any other. There does not, on the information provided by the Claimant, appear to have been any final hearing in case number 1800837/2022 and it appears to be at the stage of requiring the claimant in that matter to provide further information about that claim.

9. There must be finality in proceedings and the reconsideration process should not generally be used to gain a "second bite at the cherry" (*Todd t/a Hygia Professional Training v Cutter UKEAT/0063/07*).

10. Taking into account the grounds of the application for reconsideration and considering them in the round with the comments above, my conclusion is that the Claimant has had a fair opportunity to address the tribunal on any points of substance.

11. There is no reasonable prospect of the original decision being varied or revoked for those reasons.

Employment Judge Knowles

26 September 2022