



EMPLOYMENT TRIBUNALS

Claimant: Mr S Egan

Respondent: The Environment Agency

RECONSIDERATION JUDGMENT

1. The claimant's application dated 22 September 2022 for reconsideration of the judgment sent to the parties on 8 September 2022 is refused.

REASONS

1. In a judgment sent to the parties on 8 September 2022 following a hearing on 17 August 2022 the Tribunal found that the claimant was not disabled by reason of workplace situational anxiety and his claim of disability discrimination was therefore dismissed.
2. On 22 September 2022 the respondent applied for a reconsideration of that judgment. The grounds for the claimant's application, in summary, are that I should have concluded that the workplace situational anxiety had a substantial adverse impact on his ability to carry out normal day to day activities.
3. Rule 70 of Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 ("**the Rules**") provides that a Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the original judgment may be confirmed, varied or revoked.
4. Rule 71 provides that applications for reconsideration shall be made either in the hearing itself or, in writing, within 14 days of the date on which the judgment is sent to the parties. Rule 72 contains the process that must be followed when an application for reconsideration is made. The first stage is for the Employment Judge to consider the application and decide whether there are reasonable prospects of the judgment being varied or revoked. If the Employment Judge considers that there are no

reasonable prospects of the judgment being varied or revoked, then the application shall be refused.

5. If the application is not refused at the first stage, there may be a reconsideration hearing and the parties will be asked for their views on whether the application can be determined without a hearing. The other party will also be given the opportunity to comment on the application for reconsideration.
6. When dealing with applications for reconsideration, the Employment Judge should take into account the following principles laid down by the higher courts:
 - a. There is an underlying public policy interest in the finality of litigation, and reconsiderations should therefore be the exception to the general rule that Employment Tribunal decisions should not be reopened and relitigated;
 - b. The reconsideration process is not designed to give a disappointed party a 'second bite at the cherry'. It is "*not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before*" (Lord McDonald in **Stevenson v Golden Wonder Ltd 1977 IRLR 474**);
 - c. The Tribunal must seek to give effect to the overriding objective of dealing with cases fairly and justly, which includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding delay, so far as compatible with proper consideration of the issues, and saving expense;
 - d. The Tribunal must be guided by the common law principles of natural justice and fairness;
 - e. The Tribunal's broad discretion to decide whether reconsideration of a judgment is appropriate must be exercised judicially "*which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation*" (Her Honour Judge Eady QC in **Outsight VB Ltd v Brown 2015 ICR D11**);
 - f. The interests of both parties should be taken into account when deciding whether it is in the interests of justice to reconsider the judgment;
7. The claimant's application is, in essence, an attempt to reargue a point that was considered in some detail at the preliminary hearing. The claimant had every opportunity at the that hearing to put forward his case as to the impact of his condition his ability to carry out normal day-to-day activities. The claimant is therefore trying to have a second bite at the cherry. That is not the purpose of the reconsideration process. There is no new evidence contained within the claimant's application for

reconsideration, nor anything else to suggest that it would be in the interests of justice to reconsider the judgment.

8. For the above reasons I am satisfied that there are no reasonable prospects of the judgment being varied or revoked. The application for reconsideration is therefore refused.

Employment Judge Ayre

Date: 6 October 2022