



EMPLOYMENT TRIBUNALS

Claimant: Mrs M Durojaiye

Respondent: St Mary's Care Limited

JUDGMENT

The Claimant's application dated **10 August 2022** for reconsideration of the preparation time order sent to the Parties on **27 July 2022** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because the claimant is making substantially the same application as was considered in the decision of 27 July 2022.

1. The Claimant applies for reconsideration on two grounds:
 - a. Firstly, that the award of 14 hours preparation time in relation to a postponed one-hour case management preliminary hearing is insufficient and should be increased to 52 hours; and
 - b. The Respondent's conduct elsewhere in the litigation should be classed as unreasonable conduct and a PTO made in relation to this.
2. The award of a preparation time order ("PTO") relates to unreasonable conduct in the litigation, not in relation to the parties' relationship as a whole, which in this case has been characterised by continuous disputes and mistrust for a significant period, as was established at the liability hearing.
3. A number of the issues raised in the Claimant's application for a PTO and raised again in the application for reconsideration of the PTO arise out of problems which originated during the Claimant's employment, such as the Claimant's mental health issues, improper record-keeping of timesheets and pay slips, and so on.
4. In relation to the first ground of reconsideration, the application discloses no new evidence or information from which the original decision to award 14 hours preparation time in relation to the cancellation of a one-hour case management hearing could be varied. 14 hours preparation time for a one-hour administrative hearing is considered by this Tribunal to be at the higher end of what a lay

representative, unfamiliar with the law or the process, could reasonably spend in preparation for that hearing.

5. The Claimant's application for reconsideration of the Tribunal's decision in relation to the sums awarded includes information that the claimant's daughter took a week off work to "prepare" the Claimant for the one-hour case management hearing, on account of the Claimant's mental health issues. It is not reasonable for the Respondent to be made to compensate the Claimant's daughter for this, given that the Claimant was being represented by her daughter and was not required to take any part in the case management hearing.
6. The Claimant's daughter re-iterates that she spent time reading and obtaining advice on the issues in the case from e.g., law centre clinics, and asks to be compensated for this. The PTO was awarded in relation to unreasonable conduct in relation to the postponement of the first case management hearing and the effect this had. The case management hearing went ahead, albeit at a later date, and so it cannot be said that all of the preparatory work done for it was wasted. Furthermore, any work done by the Claimant or her daughter in familiarising themselves with the law and the Tribunal process as a whole would have been useful to the proceedings as a whole and was not wasted by the postponement of the first case management hearing.
7. In relation to the second ground of the application for reconsideration, as was already noted in the PTO decision, the Tribunal must consider the conduct of the Respondent during the litigation in the context of the litigation as a whole. The Claimant's own conduct was at times unhelpful, as has already been documented. Matters were delayed and additional time was spent because of a lack of clarity in the Claimant's case and in her own evidence, which in turn had an effect on the Respondent's conduct. The Claimant and her daughter were at times so entrenched in their dispute with the Respondent that they overlooked the Tribunal's role in directing and managing the litigation and their own role in assisting the Tribunal manage the litigation in a proportionate manner.
8. There is no evidence from which there is any reasonable prospect of varying the PTO decision to widen the scope of the Respondent's unreasonable conduct from the first case management hearing to other issues in the case. This ground of application for reconsideration is also refused.

Employment Judge Barker
Date 21 September 2022