



EMPLOYMENT TRIBUNALS

Claimant: Ms M Gan

Respondent: County Durham and Darlington NHS Foundation Trust

Heard at: Newcastle Upon Tyne Hearing Centre **On:** 7 November 2022

Before: Employment Judge Johnson

JUDGMENT ON APPLICATION FOR RECONSIDERATION

Pursuant to Rules 70 – 73 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, the claimant's application for a reconsideration of the Judgment promulgated on 28 September 2022 is refused. It is not in the interests of justice for there to be a reconsideration.

REASONS

1. By judgment promulgated on 28 September 2022, following a hearing on Monday 5 September 2022, the Tribunal struck out the claimant's complaints of unlawful deduction from wages, unfair constructive dismissal, automatic unfair dismissal for making protected disclosures, unlawful race discrimination and being subjected to detriment on the grounds she had made protected disclosures.
2. By letters dated 4 October 2022, 14 October 2022, 28 October 2022 and 7 November 2022, the claimant made an application for a reconsideration of that judgment. The claimant attached a number of documents to that application.
3. By letter dated 7 November 2022, the respondent set out its objections to the claimant's application for a reconsideration.

4. In its judgment following the hearing on 5 September 2022, the Tribunal provided in considerable detail its reasons for striking out all the claims. The principal reason is that the incidents upon which the claimant relies took place prior to her resignation in November 2009. Her claims are accordingly considerably out of time. At the hearing in September, the claimant failed to provide any or any adequate explanation for the delay.
5. The claimant's application for a reconsideration does little more than re-hash the reasons she gave at the hearing on 5 September. No new information has come to light since that hearing. It is not suggested that the judgment was made as a result of an administrative error, nor that the parties did not receive notice of that hearing. Accordingly, those grounds which would have been relied upon prior to the change of rules in 2013, do not exist.
6. It is for the claimant to satisfy the Tribunal that it is in the interests of justice for there to be a reconsideration. The claimant has failed to do so. It remains the position that there could never be a fair trial of any issues between these parties, due to the passage of time since 2009. There is no good reason why the claimant could not have presented her claims to the Tribunal within the three month time limit.
7. I am satisfied that it is not in the interests of justice for there to be a reconsideration of the judgment promulgated on 28 September 2022. The application for a reconsideration is refused.

Employment Judge Johnson

9 November 2022

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