EMPLOYMENT TRIBUNALS

Claimant: Mr P Bakoukissa
Respondent: Jaguar Land Rover Ltd

JUDGMENT ON RECONSIDERATION

The claimant's application for reconsideration is refused.

REASONS

1. In a judgment dated 8 December 2022 the Tribunal dismissed the claimant's claims.

2. On 13 December 2022 the claimant applied for reconsideration via email. On 15 December the claimant emailed again regarding his reconsideration application. In his email the claimant emphasised that a particular matter he relied upon was an allegation of bias/impartiality against the Judge. The basis for that point was that the Judge and the respondent's counsel, Mr Heard, were formerly members of the same chambers. The claimant said this gave rise to "serious misconduct". The claimant then emailed further information in support of his application in two emails on 17 December. Finally the claimant emailed with further information on 22 December. Some of the documents submitted by the claimant were documents which the Tribunal already had when it made its decision (such as the closing submissions).

3. I have now considered the claimant's application and the information submitted in support of it. I have concluded that there is no reasonable prospect of the original decision being varied or revoked and I am therefore refusing the application in accordance with rule 72(1) of the Tribunal's rules of procedure. The application was wide ranging and I have considered all the points raised by the claimant even if I don't specifically mention them. The reasons why I have reached my conclusion are as follows.

4. It appears that the reconsideration application is an attempt by the claimant to reargue the case. The claimant's application is based upon expanding upon points which were raised and considered at the hearing or raising arguments which could and/or should have been deployed at the hearing. The parties were aware of the issues at the hearing and could address the Tribunal on them. The Tribunal made decisions on all the issues which were necessary to determine the claim. Overall, the application reads as though the claimant has taken the

opportunity to make further submissions following the judgment. It is not in the interests of justice to reconsider a judgment on such a basis, especially given the importance of finality in litigation.

5. I have considered all of the points raised by the claimant and none of them lead to any reasonable prospect of the original decision being varied or revoked. The claimant had the opportunity to give evidence, ask questions and make submissions on all the issues which he now wishes to expand upon at the hearing. The claimant's application is an attempt to re-argue the issues because he disagrees with the decision. This is not a valid ground for a reconsideration.

6. The claimant has not demonstrated that any new evidence has become available since the conclusion of the hearing which could not have been reasonably known of or foreseen at that time.

7. The Tribunal has already weighed up all of the evidence which it saw and heard when making its liability decision. I consider that this is apparent from an objective reading of the judgment. The Tribunal referred specifically to the evidence which we considered was most relevant. It was not necessary to refer to every piece of evidence but this does not mean we did not take it all into account. The Tribunal's approach has already taken account of the weight to be attached to witness evidence where the witness was not called (see paragraph 3 of the judgment).

8. The claimant has already had the opportunity to make the points he seeks to make in the reconsideration application to do with bias/impartiality/conflict of interest of the respondent's witnesses. The Tribunal has already considered the arguments raised by the claimant about this. The claimant has reemphasised his argument that the DSAR messages show that Mr Lee and Ms Ramirez had conspired to make false allegations against him. This is a clear example of an argument that the Tribunal has already considered and rejected (see in particular paragraphs 160 (d) and (e) of the judgment; we found that the messages did not show that and instead they showed that that Mr Lee and Ms Ramirez had genuine concerns about the claimant's behaviour which they wanted to address). Similarly we have already set out our findings as to why we did not accept that Mr Lee had harassed the claimant as alleged and explained our findings of fact as to what actually took place (see paragraph 139 – 140 of the judgment). These were examples of matters where the claimant had an opportunity to present relevant evidence and argument at the hearing and we took everything he referred us to into account. The claimant is simply seeking another attempt to argue his case and this is not in the interests of justice.

9. The allegation of bias against the Judge was not raised at the hearing and it could have been because the information the claimant relies on to support this allegation is publicly available as the claimant has got it from the internet. In any event the allegation is misconceived. The information obtained by the claimant

shows that the Judge and Mr Heard were members of the same chambers for a little over a year (Mr Heard having joined in June 2018 and the Judge having left in August 2019 to become a Judge). This fact does not give rise to any actual or apparent bias. If there had been any kind of friendship or relationship between the Judge and Mr Heard which might give rise to a perception of bias I would have raised it at the hearing. Therefore this point does not lead to any reasonable prospect of the original decision being varied or revoked either.

10. This is a clear example of a case in which the parties and the interests of justice are best served by finality of litigation and in particular confirming the Tribunal's judgment.

Employment Judge Meichen 11.1.23