



EMPLOYMENT TRIBUNALS

Claimant: Ms O Stachowicz v

Respondent: The Good Care Group London Limited

JUDGMENT ON APPLICATION FOR RECONSIDERATION

In exercise of powers contained in Rule 72 of the Employment Tribunals Rules of Procedure 2013 (“**Rules**”), the claimant’s application of 15 December 2022, for reconsideration of the judgment made on 2 December 2022, is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The claimant’s claim of constructive unfair dismissal was dismissed by a reserved judgment, dated 2 December 2022.

Applicable Rules

2. The power to confirm, vary or revoke a judgment is found at Rule 70. That provides that a judgment can be reconsidered “*if it is in the interests of justice to do so*”.
3. Rule 71 of the Rules requires that an application for reconsideration is made within 14 days of the written record being sent to the parties. The claimant made her application on 15 December 2022. The application for reconsideration is therefore made in time.
4. Rule 72 (1) of the Rules provides:

“An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. ...”

5. Where an Employment Judge refuses an application following the application of Rule 72(1), then it is not necessary to hear the application at a hearing. Rule 72(3) provides that the application for reconsideration should be considered in the first instance, where practicable, by the same Employment Judge who made the original decision. I am the judge who made the decision in respect of which the claimant makes her application for reconsideration.

Grounds and reasons of reconsideration application

6. The application for reconsideration appears to be made on the following grounds (in summary):
 - a. The claimant believes the hearing was dominated by the respondent's legal representative and based only on the statements of their witnesses.
 - b. The claimant did not know how to ask questions, was reprimanded for such and as a result gave up.
 - c. The hearing bundle was not agreed by the claimant.
 - d. The claimant's witness statement was not taken into account during the hearing, or in making the judgment.
 - e. That neither the dismissing officer nor appeal officer considered the reasons put forward by the claimant.
 - f. The claimant repeated several other arguments she made in her claim.

Decision on the reconsideration application

7. I do not consider that the hearing was dominated by the respondent's legal representative. The claimant asked questions of witnesses and made submissions. The hearing was not based only on the statements of the respondent's witnesses but also the statement and other evidence of the claimant. The claimant was able to ask questions. She was not reprimanded for asking questions but was provided with assistance in how to formulate questions rather than make statements.
8. In the judgment I mistakenly referred to an agreed bundle. The bundles were not agreed by the claimant. I therefore had before me unagreed bundles. I considered the documents in both bundles. I do not consider the reference in the judgment to an agreed rather than an unagreed bundle to me material to the decision.
9. The claimant's witness statement was taken into account at the hearing and in the process of making the judgment in this case.
10. The other matters raised by the claimant are repetition or matters considered at the hearing. The hearing was the claimant's opportunity to give information, ask questions and raise issues, which she did.
11. I gave all the issues full consideration. The claimant seeks to challenge the conclusions I reached. It is not the purpose of reconsideration to allow a party to dispute a determination that a party disagrees with and it is a fundamental requirement of litigation that there is certainty and finality. I do not therefore consider there is a reasonable prospect of the original decision being varied or revoked.

12. I do not doubt that the claimant is unhappy with the judgment but, for the reasons outlined here, the claimant's application for reconsideration of the judgment in his case is refused.

Employment Judge Cansick

Date: 17 February 2023