



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondents

Ms K Bronson

V

Vistry Homes Ltd

DECISION

In exercise of my powers contained in Rule 72 Employment Tribunals Rules of Procedure 2013 I refuse the claimant's application for reconsideration on the grounds that there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. On 5 August 2022 the parties were sent the judgment and reasons detailing the outcome of the consideration of the preliminary Issue which determined that at the relevant time the claimant was not a disabled person within the meaning of section 6 of the Equality Act 2010.
2. On 19 August 2022 the claimant submitted an application to reconsider that judgment.
3. The application to reconsider as articulated in the claimant's email of 19 August 2022 is considered to be based on the claimant's request that the judgment should be reconsidered on the basis that it is necessary in the interests of justice to do so. The substance of the claimant's email sets out the reasons why the Tribunal should reconsider the Judgment and reasons

sent to her on 5 August 2022 and it is that reconsideration request that is considered in this Decision.

4. The power to reconsider a judgment is contained in Rule 70 to 73 Employment Tribunals Rules of Procedure 2013. The Rules enable a tribunal to reconsider a judgment where it is necessary in the interests of justice to do so. Rule 72 provides that an Employment Judge shall consider the application. If the Judge considers that there is no reasonable prospect of the decision being varied or revoked the Judge shall refuse the application.
5. In my initial reconsideration of the 5 August 2022 Judgment and Reasons which determined the Preliminary Issue in relation to the question of whether or not the claimant was at the relevant time a disabled person the medical records submitted to the Tribunal by the claimant by email on 14 November 2022 were not before me. It is in the interests of justice that I now review my decision of 7 March 2023 having considered the attachments which the claimant sent to the Employment Tribunal on 14 November 2022.
6. I have applied Rule 72. The claimant in her email of 19 August 2022 set out the grounds on which she purports to rely on Rule 70, namely that it is necessary in the interests of justice and in reality the claimant is challenging the conclusions reached. The claimant in essence bases her request on being allowed to submit further medical evidence. The bundle of documents before me at the Preliminary Hearing extended over 577 pages and I was directed to specific documents within the bundle to which the parties expressly referred me and the relevant evidence was referred to in reaching the findings of fact that were made to determine the issue. The claimant did not attach to her original reconsideration application any medical evidence to support her application which initially caused concern that the claimant

- while indicating that she wished to apply for a reconsideration did not include any of the 'further medical evidence and GP Medical records to which she referred as supporting her application nor did she include detail of any further information or other documents which she suggested were not available at the time and not included in the Preliminary Issue hearing bundle.
7. The respondent in response to the claimants application had by their email 22 August 2022 noted their objection to the claimant asserting that it was her intention to submit additional evidence to the reconsideration.
 8. I have since signing my reconsideration decision on 7 March 2023 had the claimant email to the tribunal dated 14 November 2022 brought to my attention and I have reviewed my decision in light of the contents of the documents attached to that email.
 9. The claimant has sent to the tribunal 6 attachments, 5 attachments relating to medical records extending over some 71 pages and a further attachments which was a copy of the claimants grievance set out in her email 11 November 2020 which is a document already included within the bundle before me at the Preliminary Hearing [261-267].
 10. The medical evidence that the claimant has submitted to support her application that I reconsider my original August 2022 judgment comprises 29 pages of her GP records and a variety of historic medical records and correspondence which was not before me at the hearing. The claimant has also included medical reports and correspondence that postdates the termination of her employment with the respondent and was not before the respondent at the relevant time nor was it before me at the Preliminary Hearing.

11. The claimant before she attended the public Preliminary Hearing, to determine inter alia whether the claimant was disabled had been before Employment Judge Algazy QC in a case management preliminary hearing held on 25 February 2021 when he had directed at para 11 that:

“1 1. The claimant must by 18 March 2021 send to the respondent:

11.1 copies of the parts of her GP and other medical records that are relevant to whether she had the disability at the time of the events the claim is about. She may blank out anything that is clearly not relevant;

11.2 any other evidence relevant to whether she had the disability at that time.”

12. The claimant had not in the period between 25 February 2021 and the Preliminary Hearing provided anything other than limited medical evidence in the Preliminary Hearing bundle of documents and there has been no good reason provided to explain why in the face of clear direction the claimant did not submit relevant evidence to the hearing.

13. The claimant in real terms seeks to challenge the conclusions reached on the arguments before me at the preliminary hearing for which in reality the appropriate avenue is by way of appeal. At the hearing the claimant relied on limited medical evidence and did not include historic medical evidence including detailed GP records nor did she provide a full account of the extent of any substantial adverse effect on the claimant ability to carry out normal day to day activities before 28 August 2020 when she began a period of long term sickness absence.

14. The interests of justice require finality between the parties subject to any appeal and the reconsideration provisions do not entitle a disaffected party to reopen issues which have already been determined, in the findings of

fact that have been reached on the evidence and argument before it. There is nothing in the arguments advanced by the claimant which could lead the tribunal to vary or revoke its decision.

Employment Judge Dean
8 March 2023