



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss J Mallinowski

**Respondent:** STB Limited  
(trading as Surrey Translation Bureau) (1)  
Mr G Cooke (2)

## JUDGMENT

The respondent's application dated **16 February 2023** for reconsideration of the judgment sent to the parties on **2 February 2023** is refused.

## REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, because the Tribunal does not consider it necessary in the interests of justice to reconsider that part of the Judgment relating to the claim for failure to provide reasonable adjustments during the redundancy process for the following reasons.
2. The error in the finding of fact is noted at paragraph 81 of the Judgment. The Tribunal found that on 12 January 2021 Mr Cooke emailed the claimant to arrange the final consultation meeting confirming she could be accompanied by an observer when, in fact, the Tribunal accepts that the offer made by the respondent was as that the claimant could be accompanied by a representative who had the option to address the meeting or attend as witness. We accept the respondent's submission that the claim for a failure to make a reasonable adjustment concerned only two of the four formal redundancy consultation meetings. This factual error has been corrected in the Judgment reissued under Rule 69.
3. Under the provisions of the Equality Act 2010 a substantial disadvantage is one which is more than minor or trivial. Whether such a disadvantage exists in a particular case is a question of fact and is assessed on an objective basis. The duty to make adjustments requires employers to take such steps

as it is reasonable to have to take, in all the circumstances of the case, in order to make adjustments. The Act does not specify any particular factors that should be taken into account. What is a reasonable step for an employer to take will depend on all the circumstances of each individual case, which have been considered by this Tribunal.

4. The Act does not permit an employer to justify a failure to comply with a duty to make a reasonable adjustment; we consider this is the approach taken in the request for reconsideration. However, an employer will only breach such a duty if the adjustment in question is one which it is reasonable for the employer to have to make. So, where the duty applies, it is the question of 'reasonableness' which alone determines whether the adjustment has to be made. Ultimately the test of the 'reasonableness' of any step an employer may have to take is an objective one and will depend on the circumstances of the case.
5. We do not consider the amendment to the fact alters our overall conclusion that it was reasonable in all the circumstances known to the respondent at that time to allow Dr Coulton to speak on behalf of the claimant at all redundancy meetings. Indeed, in allowing him to do so in some, but refusing to allow him to speak in another is in and of itself illustrative of the respondent being unreasonable when it did not allow him to do so.
6. Therefore, we confirm our conclusion that it was reasonable given the impact of the claimant's disability on her, known to the respondents since November 2017, for them to have allowed Dr Coulton to speak on her behalf when he attempted to do so and in refusing this amounted to a failure to make a reasonable adjustment.

The remedy hearing for 15 May 2023 remains listed and parties are reminded to comply with the orders in the case management order 16 March 2023 in preparation for that hearing.

*Employment Judge Hutchings*

Date: 17 March 2023

JUDGMENT SENT TO THE PARTIES ON

27 March 2023

FOR THE TRIBUNAL OFFICE