



EMPLOYMENT TRIBUNALS

Claimant: Mr C Mallon

Respondents: Blacktrace Holdings Ltd (1), GB Ingredients Ltd (2), Spider Web Recruitment Ltd (3)

JUDGMENT ON AN APPLICATION FOR RECONSIDERATION

The claimant's application for reconsideration is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

Introduction

1. On the last day of the hearing (24 November 2022) the Tribunal provided an oral judgment and reasons. The claimant's claim of failure to make reasonable adjustments failed and was dismissed. The written judgment was sent to the parties dated 25 November 2022. Written reasons were requested and these were provided on 26 January 2023. On 2 February 2023 the claimant applied for reconsideration.
2. The claimant's reconsideration application comprises:
 - 2.1 A short email covering letter.
 - 2.2 A PDF document entitled "reconsideration request", which runs to 58 pages.
 - 2.3 A PDF document entitled "suggested reasonable adjustments for dyspraxia".
 - 2.4 A judgment from the Court of Appeal in Northern Ireland in a case called BT plc v Kevin Meier.
 - 2.5 The claimant's CV.
3. Unfortunately, there was an administrative delay in providing the claimant's reconsideration application to me.

Law

4. Rule 70 of the Tribunal's rules of procedure provides as follows: "*A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any*

judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.”

5. Rule 71 sets out the procedure for applying for reconsideration. It includes that any reconsideration application shall set out why reconsideration of the original decision is necessary.
6. Rule 72(1) then provides as follows: *“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...”*
7. When dealing with the question of reconsideration I must seek to give effect to the overriding objective to deal with cases ‘fairly and justly’ (Rule 2). This includes:
 - a. ensuring that the parties are on an equal footing
 - b. dealing with cases in ways which are proportionate to the complexity and importance of the issues
 - c. avoiding unnecessary formality and seeking flexibility in the proceedings
 - d. avoiding delay, so far as compatible with proper consideration of the issues; and
 - e. saving expense.
8. I should also be guided by the common law principles of natural justice and fairness. This would include the importance of finality in litigation.

Analysis and conclusion

9. I have now read the documents submitted by the claimant. I struggled to discern any possible valid grounds for the claimant’s reconsideration application. Much of the application seems to have been cut and pasted from different sources. I do not think the claimant has provided any cogent explanation as to why reconsideration is necessary in the interests of justice.
10. It is relatively clear that the claimant seeks to challenge or question some of the findings of the Tribunal. He also seeks to provide further information, commentary or submissions about the issues the Tribunal had to determine and the findings we reached. These are not valid grounds for reconsideration.
11. There is no reasonable prospect of the original decision being varied or revoked, because it appears that the reconsideration application is an attempt by the claimant to reargue his 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 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 that basis. The claimant had the opportunity to provide evidence, ask questions and make submissions on all the issues the Tribunal had to determine at the hearing.

12. I have considered all of the matters raised by the claimant and none of them are such that they would give any reasonable prospect of the original decision being varied or revoked. All that the application shows is that the claimant disagrees with, or at least questions, the decision but this is not sufficient to justify reconsideration. The application is simply an attempt to have a second bite of the cherry. This was a case in which the parties and the interests of justice were best served by finality of litigation and in particular confirming the Tribunal's judgment.

Employment Judge Meichen
3 May 2023