



EMPLOYMENT TRIBUNALS

Claimant: Ms Giovanna Marino

Respondent: Guys and St Thomas NHS Foundation Trust

JUDGMENT

The Claimant's application for reconsideration of the judgment sent to the parties on 27 April 2023 is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. Having considered that it was in the interests of justice to review the decision of 24 April 2023, I have reviewed:
 - a. my notes of the evidence given by the Claimant and the submissions made by the Claimant and Mr Cook at the hearing on 29 March 2023;
 - b. the witness statements of the Claimant;
 - c. the judgment sent to the parties on 27 April 2023;
 - d. the contents of the Claimant's application;
 - e. the Respondent's response dated 17 May 2023.
2. Having carried out that review, I am satisfied that there are no reasonable prospects of the Tribunal's original decision being varied or revoked.

General

3. In her application for a reconsideration of the judgment, the Claimant indicates that she, *"is Italian; English is not her mother tongue. She is not a lawyer, either."*
4. At no stage in the hearing on 29 March 2023 did the Claimant indicate that she required the assistance of an interpreter and I was satisfied that the Claimant, Mr

Cook and the Tribunal were able to understand each other and follow what was being said. Further, the Tribunal ensured that it provided the Claimant with every opportunity to put forward her evidence and submissions, taking account of the fact that she was unrepresented.

5. In this context, and in reaching my decision in respect of the Claimant's application for a reconsideration, I have taken account of the following guidance.
6. In *Outasight v VB Brown* 2015 ICR D 11, it was confirmed that, under Rule 70, Employment Tribunals have a broad discretion when determining reconsideration applications. It was stated that discretion must be exercised judicially, *"which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation"*.
7. In *Liddington v 2Gether NHS Foundation Trust* UKEAT 0002/16/DA, it was said:

"34. [...] a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration."
8. In *Fforde v Black* UKEAT/68/80 Lord McDonald said:- *"Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case, where something has gone radically wrong with the procedure involving a denial of natural justice or suchlike."*

Philosophical belief

9. Having read the Claimant's application for a reconsideration of the judgment in respect of her claimed philosophical belief, I am satisfied that the arguments and submissions made by the Claimant in that document reflect the evidence and submissions made by her at the hearing on 29 March 2023. As stated, the purpose of the reconsideration is not to provide the parties with the opportunity of adducing further evidence, nor, more particularly, to simply comment and provide further argument on those parts of the judgment with which they disagree. Reconsideration is not a right or opportunity to remake the arguments that have been made, or could have been made, at the original hearing or to reargue matters in a different way or adopting points previously omitted.
10. As for the comment that, following the hearing on 1 December 2022, the order of EJ Tobin was sent out on 27 February 2023, the Claimant must have appreciated in the course of the discussion on 1 December 2022 the need for a further statement as this was provided by her within the necessary timescale. However, as stated in the

judgment, despite being a lengthy document, it made no reference at all to the Coronavirus, the Coronavirus pandemic, COVID-19, the PCR tests or masks.

Application to amend

11. Again, the Tribunal considers that, on 29 March 2023, the Claimant was given every opportunity to make her submissions, and the Tribunal does not consider there is anything in her application for reconsideration of the decision which justifies the Tribunal either varying or revoking its decision.
12. The Tribunal repeats that the purpose of the reconsideration is not to provide the parties with the opportunity to adduce further evidence or to make further submissions and comment on those parts of the judgment with which they disagree. There is a strong public interest that there should, so far as possible, be finality in relation to issues of the sort considered at the preliminary hearing.

Employment Judge Havard
Dated: 19 May 2023

JUDGMENT SENT TO THE PARTIES ON

19th May 2023
GDJ

FOR THE SECRETARY OF EMPLOYMENT
TRIBUNALS