



EMPLOYMENT TRIBUNALS

Claimant: Ms. Teresa Lanni

Respondent: Hampshire Hospitals NHS Foundation Trust

Before: Employment Judge Lang

RECONSIDERATION JUDGMENT AND REASONS

1. The Claimant's application for reconsideration is refused.
2. The Claimant has applied for reconsideration of the reserved Judgment dated 6th April 2023. That Judgment considered the question of disability for the purpose of the Equality Act 2010 for the period of 2014 up until 2017. It is accepted by the Respondent that the Claimant is a disabled person for the purpose of the equality Act from August 2017 onwards.
3. The Reserved Judgment on disability for the period of 2014 up until 2017 was dated 6th April 2023, and followed a hearing on 17th March 2023. It was sent to the parties on 12th April 2023. On the 26th April 2023 the Claimant emailed the Tribunal, the subject of that email made reference to an "appeal" of the decision, however, in the body of the email I am asked to reconsider the Judgment. I have treated that email as an application for reconsideration pursuant to Rule 70 of the Employment Tribunal's (Constitution & Rules of Procedure) Regulations 2013 Schedule 1.

4. Very broadly the grounds for reconsideration, set out within the Claimant's email of 26th April 2023, can be summarised as follows:
 - a. That due to feelings of being overwhelmed, and the complex nature of proceedings, and her understanding it was only after the hearing she realized what was required of her.
 - b. The Claimant continues to suffer with her mental health and remains under the care of medical teams. She alleges that her mental health diagnosis has been caused by how she was treated by the Respondent.
 - c. The Claimant has indicated that she is awaiting medical reports which would show that she experienced anxiety and depression on a continuous basis for the period of 2014 – 2017. That she explains is due to pressure of workloads of staff in the NHS.
 - d. The Claimant stated at the hearing that her symptoms commenced in 2014/2015 when she made her protected disclosure, and she had stress and anxiety as documented on two occasions in 2015, and later diagnosed by Dr Spencerley in 2017.
 - e. The Claimant states that she informed the tribunal that management in 2015 considered she needed counselling and made a referral to 2015.
 - f. Post 2017 other managers raised concerns on her mental health.
 - g. iTalk, as the Claimant explained, indicated that mild stress and anxiety if it continued can result in Post-Traumatic Stress disorder which was she was later diagnosed with.
 - h. The Claimant is awaiting for medical reports to consider her anxiety and depression did not just start on 2015 and stop until 2018.

The Law

5. Rule 70 of the Employment Tribunal's (Constitution & Rules of procedure) regulations 2013 Schedule 13 enables a tribunal either on its own initiative, or on an application reconsider a Judgment *where it is necessary in the interests of justice to do so*.
6. Rule 71 provides the time for an application for Reconsideration to be made, namely within 14 days of the written record, or other written communication, of the original decision., or within 14 days that the written reasons were sent.
7. Rule 72 sets out the process. 71(1) Provides that *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.*

8. Rule 72 then goes on to set out the notice to the Respondent which is required.

Analysis

9. I have set out in broad terms at paragraph 3 the Claimant's grounds for requesting reconsideration. When I am considering an application the test is whether or not it is necessary in the interests of justice to reconsider the decision. If it is considered that there are no reasonable prospects of that decision being varied or revoked then the application shall be refused.
10. I have considered the grounds raised by the Claimant however, I do not consider that she has reasonable prospects of the original decision being overturned.
11. I acknowledge that, at the time of the hearing, the Claimant continued to have her mental health diagnosis and that she was a litigant in person. However, the order of Employment Judge Salter set out the questions which she needed to answer and she provided that information. She was also given the opportunity in the hearing to answer the questions which required consideration. Her main argument for reconsideration is that there may be further information available which would show that her condition was long term at the relevant date, namely in the period of 2014 up until August 2017. That information appears to be outstanding at the time I am considering her application. I can only consider evidence, including documentation which is available.
12. Further, the issues as to whether the claimant's condition was long term is not the only question which the tribunal needs to be satisfied as to whether she is a disabled person for the purpose of the Equality Act. The written reasons set out the analysis in respect of each of those elements which needed to be considered.
13. In determining the question as to whether the Claimant is a disabled person for the period of 2014 to August 2017, I am not considering the cause of the disability, to put it another way, I do not have to ask and answer the question did the alleged treatment of the Claimant during the period of 2014 up until August 2017 cause the Claimant to become a disabled person. The other points raised by the Claimant, in respect of management concerns and referrals were considered at the hearing.
14. Therefore, having given consideration to the points raised by the Claimant in her email of 26th April 2023 and the information available, I do consider there are no reasonable prospects for the Judgment of the 6th April 2023 being varied or revoked and I therefore refuse the application. For the avoidance of doubt the Claimant's other claims not affected by the Judgment of the 6th April 2023 continue pending further determination.

Employment Judge Lang
Date 10th May 2023

Judgment & reasons sent to the parties on 23 May 2023

For the Tribunals Office