



EMPLOYMENT TRIBUNALS

Claimant: Mr Adnan Sheikh

Respondent: Mitie Care and Custody Limited

JUDGMENT ON RECONSIDERATION

The claimant's application dated 19 January 2023 for reconsideration of the Judgment sent to the parties on 21 December 2022 is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked because the issues that the claimant has raised in his reconsideration request were issues that we dealt with at the liability hearing on 09 December 2022.

Rules of Procedure

1. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application without convening a reconsideration hearing if I consider there is no reasonable prospect of the original decision being varied or revoked.

2. The test is whether it is necessary in the interests of justice to reconsider the Judgment (rule 70). Broadly, it is not in the interests of justice to allow a party to re-open matters heard and decided unless there are special circumstances such as a procedural mishap, depriving a party of a chance to put his case or where new evidence comes to light that could not reasonably have been brought to the original hearing and which could have a material bearing on the outcome.

The Application

3. By way of an email dated 19 January 2023 the Claimant made an application for the Tribunal to reconsider its decision in respect of whether the claim was presented on time and if not whether it was reasonably practicable for the Claimant to

have presented his claim on time or whether it was just and equitable to extend time. The basis of the application on this point was that the Claimant had obtained new additional evidence from Dr Sims dated 03 January 2023 where the Claimant stated in his reconsideration request ***"I asked Dr. Sim to explain his previous record dated 07/12/21 and provide further information in form of a statement to be provided to the courts. He stated the previous record should have sufficed in matters relating to my health status however was happy to provide further record on this visit. I did advise on this occasion that the judge is requesting clarity on my reasons of placing a late application to ACAS of which I can also provide full hospital records as further medical evidence regarding health matters should they be required. I feel his initial record was a clear indication from an expert medical opinion of my position at the time with my current health conditions which is why I submitted this document to the courts for review."***

4. The Claimant further restated the evidence he gave at the hearing on 9 December 2022, ***"At the time I was receiving partial advise by speaking with ACAS and the free representation unit in hope for them to provide assistance as I was unable to correctly manage due to mental/physical health stressors the correspondence between myself, courts and respondent however I did my upmost given the circumstances and do appreciate there was a slight delay in this input. I was trying to get a better understanding of the process as I have no previous knowledge of the procedure whatsoever and was struggling financially for legal representation as spending majority of savings on back surgeries to return to work as soon as possible. As well as not being paid my entitlement nor correct injury on duty payments to assist me. I had endured a mental illness in 2021 along with recovery from spinal surgeries whilst being forced to attend capability meetings that were not held in accordance with any company policy; my employment was then terminated which also added to mental stressors; which was provided as evidence to tribunal to highlight my physical and mental stressors after unemployment and also to highlight in my appeal to Paul Morrison of which went unnoticed and unheard as per my claim in its entirety has been one of the same – mismanagement, discrimination, unfair dismissal, disability discrimination, unpaid sick pay and 11 weeks entitlement."***

5. I have reviewed the evidence presented at the hearing and the additional evidence provided by the Claimant and find that the matters raised in the application were fully dealt with at the hearing and that the Claimant has not provided any additional further evidence that meet the criteria in Rule 70. The issues raised by the Claimant were considered at the substantive hearing and the new evidence from Dr Simms firstly does not add anything to the original evidence provided by the Claimant and secondly the further evidence from Dr Sims could have been obtained prior to the substantive hearing and in any event does not have any material bearing on the outcome.

6. The second issue raised by the Claimant is in respect of his notice pay and unpaid holiday pay. The Claimant has not provided any details of why he disagrees with the Respondent on the amount of money owing and the Tribunal has written separately to the parties regarding this.

7. For all the above reasons the Claimant's application is refused.

Employment Judge Hill
Date: 30 May 2023

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