



EMPLOYMENT TRIBUNALS

Claimant: AB

Respondent: Grafters Group Limited (t/a CSI Catering Services International)

JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application dated **21st June 2023** for reconsideration of the judgment sent to the parties on **7th June 2023** is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

Background to the application

1. In a judgment sent to the parties on 7th June 2023, the Employment Tribunal dismissed the Claimant's claim of sexual harassment. This followed a liability hearing heard on 25th and 26th April 2023 with a further day of deliberations on 12th May 2023.
2. The Claimant wrote to the Tribunal on 27th June 2023, attaching a 30 page application entitled "*Application for Reconsideration and Written Judgment*". Pages 1-14 were said to contain matters of law, with "*Case studies and references*" from pages 15-30.
3. The Tribunal does not understand the Claimant's application for a written judgment since the reserved judgment sent to the parties on 7th June was a written judgment within the meaning of rule 62(2) of the Employment Tribunal Rules of Procedure 2013. That part of the application is refused.

The Reconsideration Application

4. Whilst the Claimant's submissions indicate that she wishes the Tribunal to "*look into my application of today for reconsideration in the interests [of justice]*" the Tribunal is unable to identify precisely what the Claimant is actually applying to be reconsidered. It has therefore worked through the application to identify potential issues and address them below.

5. The Claimant has set out some of the procedural history at pgs. 1-2 (which she does not appear to take issue with) and then her account of the incident which the Tribunal found to be sexual harassment but not committed in the course of CD's employment (pgs. 2-5).
6. The application goes on to say "*Tort committed in the course of the relationship with the defendant [Respondent] followed by Perjury. [Please] see page no 19-27 especially. Respondent knew about it and can not be refuted*". The Claimant then cites section 1A of the Perjury Act 1911 (pg. 6) and lists aspects of the evidence which tend to show that the Respondent perjured themselves at pgs. 12, 21-30. The Tribunal made no particular findings as to the credibility of the Respondent's witnesses. Whilst it did express concerns as to the accuracy of the ASPIRE Software (judgment para [41]), and the approach of disclosure of both parties (para [21]), there are no reasonable prospects on the basis of what the Claimant has submitted for the Tribunal to reconsider its decision on the basis that the Respondent committed perjury.
7. The remainder of the application cites various cases and authorities around vicarious liability for employees and section 37 of the Health and Safety at Work Act 1974. It is not clear what the later is relevant to, however reliance on civil case law around vicarious liability (such as *Lister v Helsey Hall Limited* [2001] UKHL 22, cited by the Claimant at pg. 7) is not relevant to the legal test the Tribunal had to apply. There is therefore no reasonable prospects of the original decision being varied or revoked on the basis of consideration of *Lister* and other authorities concerning employee vicarious liability.
8. Finally, the Claimant has provided details of first instance Employment Tribunal decisions (pgs. 14-17), one concerning the Respondent, and two others concerning discrimination. The first case quoted from (pg. 15) cites the case of *Jones v Tower Boot Co Limited* [1997] ICR 254, which this Tribunal did in its judgment at para [71] and directed itself to. The Tribunal does not find any assistance in these first instance decisions, and notes that the other case concerning the Respondent is of no relevance to the issues it needed to determine and would not have been of any assistance if it had been referred to at the liability hearing.
9. Therefore the Claimant's application for reconsideration is refused because there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

Employment Judge **Bromige**

Date: **1st August 2023**

JUDGMENT SENT TO THE PARTIES ON 4 August 2023

FOR THE TRIBUNAL OFFICE Mr N R Roche