



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr C Graham

v

Swansway Garages Limited

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Claimant's application for reconsideration of the Judgment sent to the parties on 7 July 2023 is dismissed.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked for the reasons set out below.
2. The Claimant's complaint of harassment related to sexual orientation was dismissed by the Tribunal. Detailed oral reasons for the decision were given on 7 July 2023. Written reasons were subsequently requested by the Claimant and have now been provided.
3. In addition to requesting written reasons, the Claimant also applied for a reconsideration of the decision. The Claimant did not put forward any grounds for contending that the decision should be reconsidered save that the e-mail in which he requested a reconsideration stated that he wanted "*a precise definition as to when a boy and girl become a man and woman*".
4. The point which the Claimant appears to be making was a point which he also raised during his closing submissions at the end of the final hearing. This was in response to a point being argued by the respondent, namely that an abusive comment to the effect that an individual was a paedophile was not, in itself, a comment which was related to sexual orientation as defined in the Equality Act 2010. The issue as to whether comments made to the Claimant were related to



his sexual orientation was dealt with in the oral reasons provided at the time and is dealt with in the written reasons at paragraphs 64 to 72.

5. Under rule 70 of the Employment Tribunals Rules of Procedure 2013, a Judgment will only be reconsidered where it is "*necessary in the interests of justice to do so*". This requires that the Tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective (in rule 2) to deal with cases "*fairly and justly*". The discretion must be exercised judicially, having regard not only to the interests of the party seeking the 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.
6. Rule 72 requires the Employment Judge, in considering an application for reconsideration of a decision, to consider first whether there is any reasonable prospect of the original decision being varied or revoked, and, if not, the application shall be refused. If there are held to be any such prospects, then a hearing would be needed to consider the Application.
7. Applying the above considerations, and for the reasons set out below, I am not satisfied it is necessary in the interests of justice for the decision to be reconsidered or that there is any reasonable prospect of the original decision being varied or revoked.
8. Essentially, the point being made was made as part of the Claimant's case which was considered at the hearing and did not persuade the Tribunal that the comments relied upon by the Claimant related to sexual orientation as defined by the Equality Act 2010. The Tribunal's reasoning in relation to this conclusion was explained at the time and is explained in the written reasons. Allowing the Claimant a further opportunity to pursue the point being made would be contrary to the principle in respect of finality of litigation. The Application is refused.

Employment Judge Kenward

10 October 2023