



EMPLOYMENT TRIBUNALS

Claimants: Mr A Smith
Ms A Liddle

Respondent: North East Autism Society

Heard at Newcastle CFCTC

On: Thursday 28 September 2023

Before: Employment Judge Johnson

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. Pursuant to Rule 72 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, each claimants' application for a reconsideration of the Judgment promulgated on 27 September 2022 is refused on the grounds that there is no reasonable prospect of that Judgment being varied or revoked.

REASONS

1. On 15 September 2022, the Tribunal issued a Judgment dismissing the first claimant's complaint of unfair dismissal and unfair discrimination on the grounds of religion/philosophical belief and also issued a Judgment dismissing the second claimant's complaints of unfair dismissal, unlawful disability discrimination and unlawful discrimination on the grounds of religion/philosophical belief. That Judgment was promulgated on 27 September 2022.
2. Those Judgments were issued following a private preliminary hearing by telephone, which took place on the morning of 15 September 2022. As is set out in the Reasons for the Judgments, the Tribunal was satisfied that the claimants and their representative were aware of the date and time of that preliminary

hearing. Indeed, it is confirmed in their application for a reconsideration that they were aware of the date and time of the hearing.

3. No application for a reconsideration was made within the 14 day time limit set out in Rule 71 of the 2013 Rules. No appeal to the Employment Appeal Tribunal was made by either claimant. By a letter dated 21 September 2023, Messrs Tilbrook's, Solicitors, informed the Tribunal that they had been instructed by the claimants. By a letter dated 24 September 2023, Messrs Tilbrook's formally applied for a reconsideration of the Judgment issued on 15 September 2022. The application was accompanied by a witness statement from Mr Stephen Morris, general secretary of The Workers of England Union. The grounds of the application, as supported by the contents of that witness statement, are that the claimants and their representative were ready to proceed with the preliminary hearing on 15 September 2022. The witness statement states as follows:-

"Both the claimants and the claimants' representative attended the hearing, however after waiting nearly two hours to be admitted into the hearing, they contacted our office who then emailed the Tribunal at 13:18 of 15 September 2022 with the following:-

"A preliminary hearing was due to take place today at 11:30. Our claimants and our representatives had been waiting for nearly two hours to be let into the call. Our claimant Alex Smith had to leave the call as he is working this afternoon and Margaret is also having to leave to call. Would you be able to provide an update?"

4. Later that afternoon the Tribunal replied stating as follows:-

"Thank you for your email regarding the above case. I have been directed by Employment Judge Johnson to write and inform me that the case management hearing went ahead and that a Judgment has been made and will be sent out to the parties in due course."

5. The witness statement in support of the application for reconsideration goes on to state that the claimants' representative was then taken ill and went on long term sick leave. No further explanation is given as to why no further steps were taken by or on behalf of the claimants with regard to either an application for a reconsideration or an appeal against the Judgment.
6. It is clear from the Reasons attached to the Judgment, that the claimants' failure to attend was not the only reason for the striking of their claims pursuant to Rule 47. The Tribunal clearly states that it carefully considered the merits of the claimant's claims, together with their failure to comply with earlier Orders issued by the Employment Tribunal. The Tribunal was satisfied on the information before it that none of the claims had any reasonable prospect of success, as is set out in the detailed Reasons attached to the Judgment.
7. Even at this late stage, the claimants have failed to provide the information which they were ordered to provide at an earlier hearing on 1 July 2022. Neither claimant properly identified a religion or philosophical belief which could form the grounds of a successful claim for discrimination on those grounds. The claimants failed to respond to the number of authorities provided by the Tribunal in relation to the fairness of dismissals for refusing to take the Covid-19 vaccine in circumstances similar to those of the claimant.

8. Pursuant to Rule 37, the Tribunal was satisfied that none of the claimants' claims had any reasonable prospect of success. That remains the case.
9. I am satisfied that the claimants' applications for reconsiderations of that Judgment have no reasonable prospect of succeeding and there is no reasonable prospect of the Judgment promulgated on 22 September 2022 being overturned or amended.
10. Each claimants' application for a reconsideration is refused.

G Johnson

Employment Judge Johnson

Date: 25 October 2023

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