



EMPLOYMENT TRIBUNALS

Claimant: Mr Thair Bytyqi

Respondent: Arriva Kent & Surrey Ltd

Judgment

The Claimant's applications dated **25 and 26 July 2023** for reconsideration of the judgment following the preliminary hearing on **13 June 2023** is refused as there is no reasonable prospect of the original decision being varied or revoked.

Reasons

- 1 The Claimant says it was inconsistent for me to decide at the preliminary hearing to postpone the full merits hearing listed for 3, 4 and 5 July 2023 and then dismiss the claim as it was out of time.
- 2 However, following the preliminary hearing on 13 June 2023 Judgment was reserved. The hearing fixed for 3, 4 and 5 July 2023 was postponed at the preliminary hearing as it was very soon after the preliminary hearing and if the claim was not struck out, there would be too little time for the parties to prepare. As it transpired, a final hearing was not necessary as the claim was dismissed as being out of time.
- 3 The Claimant says that the Respondent's representatives removed his documents from the bundle 9(r did not include them). However, I was satisfied that I had seen all relevant documents including the medical evidence the Claimant relied on and I understood the Claimant's case before reaching a final decision. Indeed, I took time to read the Claimant's additional documents and ensured that the evidence relating to them was fully ventilated.
- 4 In addition, the Claimant says the Tribunal failed to give due weight to his medical situation and when a person such as him is the victim of discrimination, it has a major impact upon psychological wellbeing and the ability to make informed decisions, including as to whether he needed to seek specific advice, or to action formal processes. However, the medical evidence was considered and taken into account when reaching the

decision to dismiss the claim, including a report from a GP dated 30 November 2022.

- 5 In the circumstances, there is no reasonable prospect of the original decision being varied or revoked.

Employment Judge Chudleigh

Date: 2 November 2023

Sent to the parties on:

...8 November 2023.

For the Tribunal:

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