



EMPLOYMENT TRIBUNALS

Claimant: Mr S Alexander

Respondent: Estate of D B Roberts t/a Gwyn Jones Funeral
Directors

JUDGMENT

The Claimant's application dated 19 December 2023 for reconsideration of the judgment sent to the parties on 12 December 2023 is refused.

REASONS

The law

1. An application for reconsideration is an exception to the general principle that (subject to an appeal on a point of law) a decision of the Employment Tribunal is final.
2. Rule 70 ET Rules 2013 sets out the test on reconsideration which is whether it is necessary in the interests of justice to reconsider the judgment. Pursuant to Rule 72(1) I may refuse an application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
3. The importance of finality was confirmed by the Court of Appeal in **Ministry of Justice v Burton and anor** [2016] EWCA Civ 714 and in **Liddington v 2Gether NHS Foundation Trust** EAT/0002/16 Simler P said that a

'request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or reargue matters in a different way or by adopting points previously omitted. There is an

underlying public policy principle in all judicial proceedings that there should be finality of litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite of the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered”

4. There is no reasonable prospect of the original decision being varied or revoked. In reaching such a decision I have reviewed
 - a. my notes of the evidence given at the hearing on 5 December 2023;
 - b. the Impact Statement and written witness statement of the Claimant;
 - c. the documents from the Bundle;
 - d. the judgment sent to the parties on 12 December 2023;
 - e. the letter from the Claimant of 19 December 2023.
5. I am satisfied that the letter of 19 December 2023 contains additional evidence which was not put before me at the hearing on 19 December 2023. If there is now additional evidence that the Claimant wishes to rely on, he should be aware that the purpose of the reconsideration is not to provide the parties with the opportunity of adducing further evidence and there is a strong public interest that there should, so far as possible, be finality of litigation. In any event however, I had accepted that the Claimant had anxiety and depression from around July / August 2021 and even if that depression had been such that the Claimant was having suicidal thoughts, it had been submitted by the Claimant's representative at the hearing that the depression had lasted up to December 2021/January 2022 (§37-38 Judgment), matters that the Claimant repeats in his request for reconsideration. These matters do not therefore give rise to any prospect of my original decision being varied.
6. The Claimant again suggests that I did not take into account the severity of his dyslexia and the difficulty that he says he has in reading and written documents.
7. In that regard, I would repeat that the decision I made was based on the evidence that was before me, including the evidence given by the Claimant in his Impact Statement, additional written witness statement that the Claimant had relied on to support his claim that he was disabled by reason of dyslexia and in his live evidence given in response to cross-examination and questions from the Tribunal. Again, I am not satisfied that the comments made by the Claimant in his letter of 19 December 2023, that he doesn't believe that I took into account the severity of his dyslexia and difficulty he says he has in reading and written documents, persuades me that there is any reasonable prospect of my decision being varied or revoked.
8. Finally, I was satisfied that there was nothing in the conduct of the Respondent's counsel during the hearing that led me to conclude that the parties did not have a fair hearing. In particular, I did not consider that the conduct of the Respondent's counsel was in any way inappropriate and I

did not hear the Respondent's counsel making any noises.

9. My own recall is that I asked all parties to mute unless being questioned or undertaking the questioning as is my usual practice in order to avoid any additional and peripheral noises interfering with the audio quality of a CVP hearing.
10. Again, I do not accept that there is any reasonable prospect on this basis for my decision being varied or revoked.

Employment Judge R L Brace

16 January 2024

JUDGMENT SENT TO THE PARTIES ON 17 January 2024

FOR THE TRIBUNAL OFFICE Mr N Roche