



EMPLOYMENT TRIBUNALS

Claimant: Yvonne Buckley

Respondent: Ministry of Justice

JUDGMENT

1. The Claimant's application for reconsideration of the judgment dated 17 January 2024 is refused.

REASONS

1. I have had regard to the overriding objective to consider the case fairly and justly and I have done so in respect of the claimant's application. There is no reasonable prospect of the original decision being varied or revoked because:
 - 1.1. The findings of fact and decision of the tribunal was based on the evidence and information that were available at the final hearing all of which has been properly considered.
 - 1.2. The request for reconsideration does not reveal any new evidence or information that was not available to the tribunal at the final hearing.
 - 1.3. The tribunal was aware of the claimant's health condition during the hearing and discussed whether any adjustments were required. The claimant told the tribunal that she was willing and able to proceed with the hearing. On more than one occasion the claimant was offered additional breaks but she declined and said that she preferred to continue

The claimant's request for reconsideration

2. The claimant has requested a reconsideration of the decision given on 17 January 2024 by way of the following emails:
 - a. 21 January 2024 (at 04:32)
 - b. 21 January 2024 (at 04:52)
 - c. 21 January 2024 (at 04:57)
 - d. 21 January 2024 (at 06:01)
 - e. 26 January 2024 (at 07:32)

3. The claimant's application was received in time although it does not appear to have been copied to the Respondent. I consider that it is just to waive that requirement in accordance with the general discretion that the Tribunal has under Rule 6. It is just because there will be no prejudice to the respondent if I waive the requirement.
4. The email at 04:32 on 21 January 2024 repeats information about the claimant's claim that was available to the tribunal at the final hearing.
5. The email at 04:52 on 21 January 2024 refers both to the claimant wanting to appeal and also to having the matter reconsidered. I am dealing with this matter only as a reconsideration. The email sets out reasons including:
 - a. The claimant was stressed and suicidal.
 - b. The lawyer spoke to the claimant for a hour.
 - c. The claimant couldn't cope.
 - d. The Tribunal made a mistake in the way that it reached its decision.
 - e. The decision was biased and racist.
 - f. The panel were old, white people.
 - g. The panel did not review the claim properly.
 - h. Repeating information about the claimant's claim that was available to the panel at the hearing from 15 – 17 January 2024.
6. The email at 04:57 on 21 January 2024 sets out that the panel:
 - a. Got the law wrong.
 - b. Did not apply the correct law.
 - c. Did not follow the correct procedures and this affected the decision.
 - d. Had no evidence to support its decision.
 - e. Was unfairly biased towards the other party.
7. The email timed at 06:01 on 21 January 2024 repeats what is set out in the email timed at 04:57 on the same day.
8. The email at 074:32 on 26 January 2024 is a further request for a reconsideration but does not contain any new information or reason for the request.
9. The claimant has requested written reasons by emails timed at 05:05 on 21 January 2024 and 13:19 on 26 January 2024. These will be prepared and sent to the parties at a later date. (The email at 13:19 was copied to the respondent's legal representative).

The law

10. Rule 70 of the Employment Tribunal Rules of Procedure 2013 ("the Rules") sets out that the Employment Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so. If a judgment is reconsidered the decision may be confirmed, varied or revoked.
11. Rule 71 provides that an application for reconsideration under Rule 70 must be made in writing (and copied to the other parties) within 14 days of the date on which the decision was sent to the parties.
12. The process by which the Tribunal considers and application for reconsideration is set out in Rule 72. Rule 72(1) sets out that where an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused and the Tribunal shall inform the parties of the refusal.

13. Guidance as to how to approach applications for reconsideration is set out in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/002/16/DA. Simler P said (at paragraphs 34 and 35:

“...a request for reconsideration is not an opportunity for a party to seek to re-litigate matters which have already been litigated or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at 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. Tribunals have a wide discretion whether or not to order reconsideration.

Where ... a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interest of justice and asserted error of law is to be corrected on an appeal and not through the back door by way of reconsideration.

Employment Judge Heather

Date: 14 February 2024

JUDGMENT SENT TO THE PARTIES ON

28 February 2024

FOR THE TRIBUNAL OFFICE