



EMPLOYMENT TRIBUNALS

Claimant: Miss Serena Spratt

Respondent: SLM Community Leisure Charitable Trust

JUDGMENT

The Claimant's application of 11 March 2024 for reconsideration of the judgment sent to the parties on 4 March 2024 is refused.

REASONS

1. The purpose of the Preliminary Hearing on 26 February 2024 was not to decide whether the Claimant's claim of discrimination was "reputable" (as the Claimant states in her application) but whether she satisfied the definition of being a disabled person within the meaning of section 6 of the Equality Act 2010 during the period of time when she says she suffered discrimination because of (or arising from) her disability.
2. She now seeks a reconsideration of the judgment on the basis that her claim was dismissed due to lack of evidence during the alleged period of discrimination when a significant amount of her evidence was not before the Tribunal because it was not medical.
3. At the Preliminary Hearing on 6 November 2023, and in preparation for the hearing on 26 February 2024, EJ Ord ordered the Claimant to send to the Respondent by 12 January 2024 "copies of all Medical Notes and Records on which she relies in support of her contention to be a disabled person within the meaning of s. 6 Equality Act 2010 together with an Impact Statement setting out the impact which each of her conditions have on her ability to carry out normal day to day activities".
4. It is highly likely that if EJ Ord told the Claimant that her non-medical evidence did not need to be sent to the Respondent prior to the Preliminary Hearing on 26 February 2024, and would be relevant at a later date, he was making a distinction between evidence which was relevant to the question of whether the Claimant fell within the statutory definition of being a disabled person (which was the issue before the Tribunal on 26 February 2024) and evidence which

was relevant to how the Claimant says she was treated by the Respondent because of (or arising from) her disability.

5. That latter type of evidence, namely evidence which showed how the Respondent treated the Claimant, would only have become relevant once the Claimant had got over the hurdle of proving she satisfied the definition of being a disabled person within the meaning of s. 6 Equality Act 2010 and the disability discrimination claim progressed to a full hearing.
6. While it is possible that non-medical evidence may, in certain circumstances, be of some relevance to a Tribunal's assessment of the issue of disability itself, the evidence that is most relevant and cogent for the purposes of that assessment is medical evidence.
7. In the event, save for a screenshot from her NHS App, the Claimant did not provide any medical evidence additional to that which she had already provided prior to the hearing on 6 November 2023 (because she said she did not have any more such evidence) but she did provide an Impact Statement, which covered the period from October 2021 onwards.
8. Further, contrary to the Claimant's assertion in her application, that Impact Statement was not considered inadmissible at the hearing on 26 February 2024. The judgment simply noted that the Claimant's statement that she did not leave the house and spent most of the day in her bedroom must relate to the period after she was signed off work on 24 March 2023, which was after the material period for the purposes of her disability discrimination claim, and that her grandiose spending in the latter half of 2023 was similarly after that material period.
9. Accordingly, at the hearing on 26 February 2024 the Tribunal had before it all of the Claimant's medical evidence, as well as an Impact Statement. Moreover, the Claimant has not explained in her application how the non-medical evidence which she says she would have wished to put before the Tribunal was in fact relevant to the question of whether she satisfied the statutory definition of being disabled person at the material time.
10. In these circumstances there is no reasonable prospect of the Tribunal's decision being varied or revoked and the application for reconsideration is refused.

Employment Judge **Moore**

Date 3 April 2024

JUDGMENT SENT TO THE PARTIES ON

.15 April 2024.....

.....
FOR THE TRIBUNAL OFFICE