



EMPLOYMENT TRIBUNALS

Claimant: Ms Tiffany Richardson

Respondent: Venture Lighting Europe Ltd

RECONSIDERATION JUDGMENT

The Claimant's application dated 29 May 2024 for reconsideration of the written reasons sent to the parties on 22 May 2024 is refused.

REASONS

1. I have undertaken preliminary consideration of the Claimant's application for reconsideration. The Claimant has not made it clear what she wants a reconsideration of. The Claimant's application came within 14 days of the written reasons. The Claimant was successful in her flexible working claim but was unsuccessful in her indirect sex discrimination claim. The Claimant appears to rely upon unprofessional misconduct and the absence of documents that were not before the Employment Tribunal.
2. That application is contained in 5 attachments labelled appendix A-E attached to an email dated 29 May 2024.

The Law

3. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).
4. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
5. The importance of finality was expressed succinctly by Mrs Justice Simler sitting as President in the EAT decision of **Liddington v 2Gether NHS Foundation Trust EAT/0002/16**. Simler P said in paragraph 34 that:

“a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to 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 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.”

6. In common with all powers under the 2013 Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective as set out in rule 2, namely, to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

The Application

7. The points raised by the Claimant are essentially points of procedural irregularities rather than reconsideration. The first point is that the bundle was not complete and there was missing documentation. At no point during the hearing did the Claimant indicate that the bundle was not complete. The Tribunal asked the parties if the bundle of 365 pages was the bundle that we should have. The Respondent indicated that it was. The Claimant did not say that it was not the correct bundle. Having looked at the appendices provided as part of the Claimant's application, there is nothing in those documents that go to any findings of fact or conclusions that the Employment Tribunal made in coming to their decision.
8. The second point of the Claimant's application is that the Respondent's representative was unprofessional. A review of the Employment Judge's notes indicates that there was no allegation of lying made by the Respondent's representative as suggested by the Claimant's application. In any event no finding was made neither was it necessary to do so as to the accuracy of the minutes. The Claimant did not accept that the minutes were accurate, and the line of questioning pursued by the Respondent's representatives who were not lawyers were about what it was that the Claimant said was inaccurate about the minutes. The Claimant said that she did not have the recording so she could not say what was missing. The Employment Tribunal found that the Claimant to be an honest witness of truth. The Claimant's credibility was not called into question by the Employment Tribunal. The basis of the Claimant's application are attempts to re-open issues of fact on which the Tribunal heard evidence from both sides and made a determination. In that sense they represent a "second bite at the cherry" which undermines the principle of finality. Such attempts have a reasonable prospect of resulting in the decision being varied or revoked only if the Tribunal has missed something important, or if there is new evidence available which could not reasonably have been put forward at the hearing. A Tribunal will not reconsider a finding of fact just because the Claimant wishes it had gone in her favour.

Conclusion

9. Having considered all the points made by the Claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The matters raised were matters that could have been raised at the hearing, the Respondent's representative's line of questioning was appropriate, but in any event nothing in the Claimant's application went to any of the findings made by the Employment Tribunal. The application for reconsideration is refused.

Employment Judge Young

DATE 17 June 2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON

.20 June 2024.....

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FOR THE TRIBUNAL OFFICE