



EMPLOYMENT TRIBUNALS

Claimant: Mr. A. Plummer

Respondents: East Kent Hospitals University Nhs Foundation Trust

JUDGMENT on RECONSIDERATION

1. The Claimant's application for reconsideration of the judgment given in this matter on 6th June 2024 is refused, and the decision in that judgment is confirmed.

APPLICATION

2. The Claimant applied, under Rule 71 of the Employment Tribunals Rules of Procedure 2013, for reconsideration of my decision on 19th June 2024 to revoke the finding that the Claimant was unfairly dismissed.
3. The Claimant has applied for a reconsideration of my judgment as he believes that,

'the judgement should be reconsidered in the interest of justice for disabled people as this was not considered and that this is fair and proportionate because, as a litigant in person I was unaware of the changes to the tribunal process in september (sic) 2023, and I was under the impression that the case would be seen as a whole.'

DECISION

4. Upon reconsideration, there is no prospect of my decision being revoked or varied.
5. Reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to re-argue matters in a different way or adopting points previously omitted.
6. 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. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v. Burton and anor [2016] EWCA Civ 714 in July 2016 where Elias LJ said that:

‘the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party’s representative to draw attention to a particular argument will not generally justify granting a review.’

7. Similarly, in Liddington v. 2Gether NHS Foundation Trust EAT/0002/16 the EAT chaired by Simler P (as she then was) 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.'

8. Reconsideration is not a means by which to have a second bite at the cherry, or is it 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.
9. 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 interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.
10. For all of the above reasons, the Claimant's application is refused.

Employment Judge Sudra

Date: 20th June 2024