



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr K Oboh

**Respondent:** West London NHS Trust

**2204777/22**

## Judgment on reconsideration application

The Claimants' application dated 15 August 2023 for reconsideration of the Judgment sent to the parties on 2 August 2023 is refused.

## REASONS

1 The Claimant applies for reconsideration of my decision that he has not established that at material times he was disabled. His 15 August application runs to 4 pages. I asked for comments and the Respondent's solicitors replied in their 3 page letter of 1 September. The Claimant urged that I hold a hearing before determining the application, and the Respondent resisted this. I decided that a hearing could serve no useful purpose and, in accordance with the rules, I invited further submissions before making my decision on the application. I have received none.

2 The reasons for my decision on 2 August 2023 were detailed and set out in 20 paragraphs of text. I attempted to summarise the relevant chronology. The final paragraph reads: "In summary, the Claimant's case is necessarily that for a period of 13 years he has been disabled with a generalised anxiety state that has had an effect on his ability to carry out normal day-to-day activities. More coherent evidence would be required for this to be established. I conclude that there is an overall insufficiency of such evidence and that the Claimant fails to establish that he was disabled within the meaning of the Act."

3 The Claimant takes points of some detail. Under his ground numbered 1, he takes issue with some of the chronology I referred to. I consider that he misunderstands these points of detail; but, in any event, it has no consequence for my conclusion.

4 His second point is to focus on one observation I made about the lack of a diagnosis, but, again, this has no relevance to my overall conclusion. It is acceptable to note, as part of the chronological account, that there is no diagnosis, etc. It is part of the facts.

5 In the third ground the Claimant, as he is entitled to, challenges my conclusions and urges that I have disregarded either the Act, the Guidance or case law. This is, in reality, a submission that I have erred in law. As I am unable to agree that I have erred, these are, in my view, matters to raise on appeal. I did deal with the issues he raises here, such as deduced effects, and I would not revisit my decision at this point. The Respondent addresses this in terms. "The Tribunal determined that for much of the relevant period, and before, the Claimant was not experiencing anxiety and found no evidence of an impairment which lasted, or was likely to last, 12 months. This conclusion was based on OH reports, supervision notes and the Claimant's own evidence (the latter being imprecise and unclear). The Tribunal praised the Claimant's attempts to manage his condition without medical intervention but this factor was not determinative of disability. The Tribunal appropriately concluded, on the Claimant's evidence, that it was reasonable for him to adopt coping strategies and there is no evidence that these strategies broke down. The 'deduced effect' point is addressed in the Judgment."

6 The fourth numbered ground really consists of a repetition of the case the Claimant asserted and which I did not accept, in part because of an evidential insufficiency. I appreciated the case that the Claimant was making but did not accept it. My reasoning is reasonably detailed and I do not consider that I should reverse it, as that is what the Claimant seeks. I have no reason to do so; and, if I have erred in law, which I cannot see, then it is for a higher tribunal to correct me. For completeness, the point made by the Respondent under number 4 seems correct: there may be an inconsistency in the Claimant's approach here, as between the argument at the hearing and what is said now.

7 For these summary reasons, I do not consider it would be in the interests of justice to reconsider the judgment by varying, revoking or retaking it under rule 70.

Employment Judge Pearl

Date: 07/09/2023

JUDGMENT SENT TO THE PARTIES ON

07/09/2023

For the Tribunal