



EMPLOYMENT TRIBUNALS

Claimant: Miss. C. Martin

Respondents: Gorillas Technologies UK Limited

JUDGMENT on RECONSIDERATION

1. The Claimant's application for reconsideration of the judgment given in this matter on 2nd May 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 2nd May 2024 to strike out her claim.
3. The Claimant has applied for a reconsideration of my judgment on four discrete grounds.

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 resurrect matters that have already been decided upon, 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 re-instating a claim which has been struck out where 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 and the Claimant's grounds are addressed below.

Ground 1

10. The Claimant alleges that she was unaware of the deadline of 22nd April 2024, contained in Employment Judge Aspinall's Order of 15th April 2024. This Order was duly sent to the parties on 15th April 2024 and there is no suggestion that it was not received by the parties.
11. This ground is not arguable.

Grounds 2 and 3

12. The Claimant states that the Tribunal *'failed to adequately take into account relevant factors, considerations and exceptional circumstances in respect of my health.'*
13. Having provided medical evidence on 11th April 2024, Employment Judge Aspinall considered the Claimant's medical evidence and written submissions. Employment Judge Aspinall declined to grant the Claimant's application to postpone the Final Hearing and provided full and robust reasons for his decision.
14. Employment Judge Aspinall, granted the Claimant a further seven days to confirm that she has complied with Employment Judge Fowell's Order of 8th January 2024. The Claimant failed to do so.

15. There is no cogent reason why Employment Judge Aspinall's decision should be interfered with.

Ground 4

16. Under this ground, the Claimant summarises the medical evidence she had sent to the Tribunal and states that she disagrees with the Tribunal's reasons for striking out her claim and that the judgment of 2nd May 2024,

'...suggests that the tribunal may be behaving in a manner which is arguably unreasonable, which amounts to a denial of justice.

I am extremely concerned that evidence suggests that the tribunal may not appear to want my case to progress.'

17. Nothing could be further from the truth. The Tribunal wants all claims to progress and had no reason to impede the Claimant's claim progressing. The strike out of the Claimant's claim was due to her own lack of compliance and meaningful engagement in the process. The Tribunal has acted reasonably and proportionally in the circumstances and has not denied the Claimant justice.

18. For all of the above reasons, the Claimant's application is refused.

Employment Judge Sudra

Date: 19th August 2024

JUDGMENT SENT TO THE PARTIES ON

19th August 2024

FOR THE TRIBUNAL OFFICE

P Wing