



EMPLOYMENT TRIBUNALS

Claimant: Miss K Kreciszewska

Respondent: Granville Care Home Ltd

Upon application made by the claimant by email dated 7 October 2024 under rule 71 of the Employment Tribunal Rules of Procedure 2013, and without a hearing, to reconsider the judgment sent to the parties on 2 October 2024.

JUDGMENT

The Claimant's application dated 7 October 2024 for Reconsideration of the Judgment sent to the parties on 2 October 2024 is refused.

REASONS

- 1) Applications for reconsideration are governed by Rules 70 to 73 of the Employment Tribunals Rules of Procedure 2013.
- 2) An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record was sent to the parties.
- 3) Rule 70 provides that a tribunal may, either on its own initiative or on the application of a party, reconsider any judgment where it is "necessary in the interests of justice to do so". This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
- 4) The Tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases fairly and justly.
- 5) The procedure upon a reconsideration application is for the Employment Judge that heard the case or gave the judgment in question to consider the application and determine if there are reasonable prospects of the original decision or judgment being varied or revoked. Essentially, this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interest of justice. There must be some basis for

reconsideration. It is insufficient for an applicant to apply simply because he or she disagrees with the decision.

- 6) If the Employment Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon considering such an application is to act as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be considered at a reconsideration hearing.
- 7) This case was heard from 5-9 August 2024 at the Bristol Employment Tribunal. The Claimant attended the hearing and was represented by her partner, Mr D Mierzynski. An interpreter was made available for, and utilised by, the Claimant and her representative, as the Claimant's first language is Polish. The Respondent was represented by Mr G Lomas, Tribunal Advocate.
- 8) The case was heard by a full tribunal panel, which made unanimous findings of fact and conclusions, as set out in the full Judgment and Reasons.
- 9) There are two separate elements to the Claimant's application for reconsideration:
 - a) The Claimant seeks reconsideration of the Tribunal's decision that the first ACAS certificate (as referred to in paragraphs 7 to 9 of the Judgment) was the the certificate issued in compliance with the conciliation requirements set out in section 18A of the Employment Tribunals Act 1996 (the 1996 Act); and
 - b) By reference to what the Claimant describes as "new circumstances that were revealed during the witness hearings and should be taken into account".
- 10) In relation to the ACAS certificate, the Claimant's application sets out a further potential explanation for why two certificates were issued. There is no reasonable prospect of this additional potential explanation changing the Judgment of the Tribunal.
- 11) In relation to the "new circumstances that were revealed during the witness hearings and should be taken into account", the Tribunal took into account all of the evidence before it, including all witness evidence. The Claimant's account of or interpretation of the evidence as set out in their application for reconsideration does not reflect the evidence that was given to the Tribunal. By way of example, the Claimant's application refers to purported admissions made by the Respondent's witnesses which were not made.
- 12) There is no reasonable prospect of the Judgment being varied or revoked on the above basis.

Employment Judge Youngs
19 December 2024

JUDGMENT SENT TO THE PARTIES ON
17 January 2025 By Mr J McCormick
FOR THE TRIBUNAL OFFICE

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