



EMPLOYMENT TRIBUNALS

Claimant: Mr B Lingard
Respondent: Sussex Partnership NHS Foundation Trust
Heard at: Bristol (decision on papers in Chambers)
Before: Employment Judge Midgley

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The claimant's application for reconsideration is refused because it is not in the interests of justice for the decision to be varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the Judgment dated 3 March 2022 which was sent to the parties on 4 March 2022 ("the Judgment"). The grounds of the application are contained in the document entitled 'brilliant' attached to an email of 5 March and supplemented by further documents provided under cover of an email of 15 March 2023.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time.
3. The respondent provided a detailed response to the application by letter dated 18 March 2022.

4. The grounds for reconsideration are only those set out in Rule 70, namely that it is in the interests of justice to do so.
5. The grounds relied upon by the claimant are difficult to identify, given they are contained in a document which includes an appeal, and applications in respect of other claims which are not relevant to this application; but the summary on the third page of the respondent's letter of 18 March 2022 in numbered paragraphs 4 to 14 is helpful, and seems to me to fairly reflect the 10 grounds advanced.
6. All those grounds were raised to a greater or lesser extent in the claimant's written arguments which I considered and/or in his oral arguments. I considered them before striking out the claim. Critically none of the grounds engage with the simple point that the claimant's complaints in this claim all relied upon facts or allegations which had previously been raised or ought reasonably to have been raised in the earlier two claims. It matters not whether they were identical, for the reasons set out in the reserved Judgment.
7. In so far as the application entreats me to reconsider and review my decision on matters of fact or arguments which I have previously determined, the Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/60 the EAT decided that the interests of justice ground of review does not mean "that in every case where a litigant is unsuccessful, he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".
8. There was no denial of natural justice in this case; rather I considered the evidence and the parties' arguments and found on balance that the complaints in this claim had been or should have been raised in the first and second claims for the reasons recorded in the Judgment. That is the usual process of a Tribunal where facts and their consequence are disputed.
9. Accordingly, I refuse the application for reconsideration pursuant to Rule 72 because it is not in the interest of justice for the Judgment to be varied or revoked.

Employment Judge Midgley
Date: 25 March 2022

Judgment sent to the parties: 28 March 2022
FOR THE TRIBUNAL OFFICE