



# EMPLOYMENT TRIBUNALS

**Claimant:** Robert Schooler

**Respondent:** The Department for Work and Pensions

**HELD AT:** Manchester

**ON:**

15 March 2017

**BEFORE:** Employment Judge Jones

## JUDGMENT ON RECONSIDERATION

The application of the claimant for reconsideration of the judgment on remedy, sent to the parties on 10 February 2017, is dismissed as there are no reasonable prospects of the decision being revoked or varied.

## REASONS

1. There are no reasonable prospects of success of the revocation or variation of the decision because:

- (1) In his written submission in support and supplemental submission, the claimant is seeking to reargue the case on arguments which were not accepted or variations of points which had been made but not accepted, or could reasonably have been advanced but were not. The interests of justice include a desire and need for finality in litigation. Reconsideration of a decision is not designed to enable parties to reargue their case and to refine the basis upon which their case was or could have been put.
- (2) In any event the Tribunal gave due regard to the factors which were and are now advanced in respect of the progression of the claimant's mental health and the impact that would have had upon his expected date of retirement had he remained in the employment of the respondent.
- (3) The Tribunal had regard to the opinion of Dr DeSilva as well as the strong working ethic and intentions of the claimant.

- (4) The fact Dr DeSilva was not treating the claimant at the time of his earlier relapse, or the commencement of a degeneration in his health in May and June 2013, did not render his medical opinion of no value, any less than the opinion of Dr Scott, who had not treated the claimant at all. The medical records of the claimant's mental health supported Dr DeSilva's opinion.
- (5) The suggestion now made by the claimant that the removal of his previous two managers would have led to his sustained recovery is not reflected by the fact that his health started to deteriorate in May 2013, at a time after those managers had ceased to have any involvement with the claimant. That is recorded in the medical notes.
- (6) The correlation between the earlier relapse and the claimant's working conditions in 2012 (in respect of which there was no finding of unlawful conduct on the part of the claimant's managers one way or the other) does not establish that the claimant would have worked until 66 years. The claimant advances a proposition of an ideal of working conditions and managerial relations which the Tribunal did not accept was realistic or achievable, notwithstanding the earlier history.
- (7) There was undoubtedly a connection between the claimant's mental health and his work, both in respect of the unlawful act as found and the events of the preceding year. He had been advised of that by his doctors. The Tribunal did not reject its earlier findings in the remedy hearing. Rather, the Tribunal found that ongoing stresses at work, which could not have been averted by reasonable adjustment, would have increased the likelihood of relapses such that the claimant would ultimately have accepted that to continue working was injurious to his health at the age of 60. He has taken that advice from July 2015, not rejected it.

Employment Judge Jones

Date 3 April 2017

JUDGMENT SENT TO THE PARTIES ON

10 April 2017

FOR THE TRIBUNAL OFFICE