



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr B Newton-Mold**

**v**

**The Medical Foundations for the  
Care of Victims of Torture (t/a  
Freedom from Torture)**

**Heard at:** Watford

**On:** 22 March 2018

**Before:** Employment Judge Henry

## **Appearances**

**For the Claimant:** In Person

**For the Respondent:** Mr J Feeny, Counsel

## **JUDGMENT ON AN APPLICATION FOR RECONSIDERATION**

1. The respondent by an application furnished to the tribunal as part of their response to the claimant's claim, presents an application for reconsideration under Rule 70 of the Employment Tribunal Rules 2013, as to acceptance of the claim.
2. The respondent makes their application praying in aid the case of Trustees of the William Jones' Schools Foundation v Parry [2016] ICR 1140, ostensibly that, a determination of the issues of the claim form for the purposes of Rule 12, are to be objectively assessed and not reliant on any subjectivity. The tribunal agrees therewith.
3. Rule 70 provides provision for the reconsideration of any judgment where it is necessary in the interest of justice.
4. A judgment is defined by Rule 1(3)(b) of the Tribunal Rules 2013, as a decision made at any stage of the proceedings (but not including a decision under Rule 13 or Rule 19), which finally determines:

.... any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out as a jurisdictional issue).

5. It is to be noted that Rule 70 only applies to a decision which finally determines a claim, or any issue in a claim.
6. A claim is defined by Rule 1(1) as;  

“any proceedings before an Employment Tribunal making a complaint.
7. A complaint, equally defined by Rule 1(1);  

“means anything that is referred to as “a claim, complaint, reference, application or appeal in any enactment which confers jurisdiction on the tribunal”.
8. On the claim form being presented to the tribunal on 27 September 2017, this was accepted administratively and served on the respondent. The respondent thereon raised the issue of the claim not being presented in a fashion for which they could reasonably respond. The matter was then referred to an Employment Judge, who ordered the claimant to furnish further particulars of his claim which the claimant duly complied with, and the matter has proceeded without further Judicial consideration, giving rise to this hearing.
9. From these facts, it is evident that the issue arises on the administration accepting the claim, which had not been furnished to a Judge under Rule 12. In this respect, there is no decision arising from an Employment Judge for which a reconsideration under Rule 70 then lies; there being no provision for a reconsideration of an administrative decision pursuant to Rule 70.
10. In these circumstances, there not being a judgment from which I am able to reconsider, pursuant to Rule 70, the respondent's application is dismissed.
11. On the further issue of whether the claimant's complaint as presented to the tribunal on 27 September 2017, presents a complaint for disability discrimination, the claimant has informed the tribunal that, he had not presented a complaint of disability discrimination having been informed by his GP that a determination as to disability was for a Court, and that as a result he did not then think he was able to present a complaint that he was disabled.
12. In these circumstances, the claimant says he did not, at the stage of presenting his claim to the tribunal, seek to pursue a complaint of disability discrimination.
13. The tribunal accordingly finds that, the claimant had not by his claim as presented to the tribunal, presented a complaint of disability discrimination and at that time had not sought to bring a complaint of disability discrimination.

14. It is here noted that, on the claimant not having presented a draft amendment setting out clearly his claim for disability discrimination, the tribunal is not at this juncture in a position to consider an amendment to include a claim for disability discrimination. The claimant was accordingly directed to furnish particulars of his claim, setting out clearly how it is that he alleges he is disabled, and how the acts of which he complains were predicated or related to his disability as he defines it. Once the tribunal receives such an application for amendment, the tribunal will then give consideration thereto. In this respect, the claimant is referred to the authority of *Selkent Bus Co Ltd v Moore* [1996] ICR 836.

\_\_\_\_\_  
Employment Judge Henry

Date: 1 May 2018

Sent to the parties on: .....

.....  
For the Tribunal Office