



# THE EMPLOYMENT TRIBUNAL

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**SITTING AT:** LONDON SOUTH

**BEFORE:** EMPLOYMENT JUDGE MARTIN  
Mrs Stansfield  
Mrs Macer

**BETWEEN:** Mr Cyril Nicol Claimant

AND

Blackfriars Settlement Respondent

**ON:** 30 January 2017

**APPEARANCES:**

**For the Claimant:** In person

**For the Respondent:** Mr Kohanzad - Counsel

**REASONS FOR JUDGMENT ON RECONSIDERATION**

1. Oral reasons were given at the conclusion of the hearing. These written reasons are given at the request of the Claimant.
2. The Claimant applied for reconsideration of the judgments promulgated on the 2016, dismissing his claims. By the time this reconsideration was heard the Claimant had appealed to the Employment Appeal Tribunal (EAT) which had dismissed his claim as having no reasonable ground for appealing.
3. The Tribunal asked the Claimant to set out in his own words the basis for this reconsideration application. The Claimant told the Tribunal that the EAT rejected his application as it said that the way the matter had been put before the Tribunal meant that there was no choice but to reach the decision reached. The Claimant says that he accepted this. He went on to say that matters came up about the way the matter was presented to the Tribunal which were not examined on the day. The Claimant mentioned Ms Underhill's suitability for the role and the evidence given by Mr Biggs which he said was false. The Claimant also mentioned other evidence which was not put before the Tribunal and confirmed that this evidence was available at the time of the full merits hearing. The Claimant said he sent this to Mr Brown who was representing him at the time, but Mr Brown did not use it.

4. Further, the Claimant said that whilst he knew Mr Brown was representing him, that Mr Brown should have asked for time to take instructions from him but he did not do this and therefore short of arguing with Mr Brown before the Tribunal there was nothing he could do. The Claimant said there was no request for an adjournment.
5. The Respondent submitted that instructions were taken on the morning of the hearing when the Respondent spent time in discussion with Mr Brown about what the claim was as the Respondent was considering an application to strike out. The Respondent's submission was that Mr Nicol there during this discussion. The Respondent said that in the hearing the Judge asked yes/no questions to Mr Brown to establish if the one issue (whether the Respondent was entitled to give Ms Underhill a permanent position) would be determinative of the case and Mr Brown said it would be. The Respondent agreed this was a sensible approach and the Tribunal then called an adjournment for Mr Brown to take instructions from the Claimant.
6. In considering the Claimant's application, the Tribunal referred to the notes of evidence taken at the time. They record that the hearing started at 10.30 am and was adjourned at 11 am for Mr Brown to talk to his client and to the Respondent's representative. The parties returned at 11.25 when Mr Brown confirmed that the single issue would be determinative and it was agreed this is how the hearing would proceed. There was then discussion about who would go first and a further adjournment was given so the Respondent could talk to Mr Brown about what evidence would be given (there were no witness statements for the Claimant's witnesses) and the parties returned at 11.50 at which time the evidence began. Clearly the Claimant was given several opportunities to talk to Mr Brown and give Mr Brown instructions. His assertion that he did not have this opportunity was incorrect.
7. The Claimant's application for reconsideration is refused. If there is an issue between the Claimant and Mr Brown, then that is an issue between them. The Tribunal made the decision on the way the case was presented having given opportunity for Mr Nicol to discuss and give instructions to Mr Brown. The other matters raised are not new matters and could have been brought to the Tribunal's attention at the hearing in July 2016.

Employment Judge Martin  
Date: 21 April 2017