



# EMPLOYMENT TRIBUNALS

## Claimant

Mr G Hardie (deceased)

Acting through his personal representative  
Mrs A Hardie

## Respondent

Centreplate UK

## JUDGMENT ON RECONSIDERATION

### Rules 70 - 73 of the Employment Tribunal Rules of Procedure 2013

Upon the claimant's application made by email of 26 September and 14 November 2017 to reconsider the preliminary hearing judgment sent to the parties on 13 June 2017 with reasons sent on 2 November 2017 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing

Upon reconsideration of the preliminary hearing judgment the application to reconsider is refused as there is no reasonable prospect of that judgment being revoked.

## REASONS

### Introduction

1. By a claim form sent on 15 February 2017 Mrs Hardie presented a claim on behalf of her late husband who had died on 28 January 2017. At a preliminary hearing on 15 May 2017 it was determined that the tribunal had no jurisdiction to hear the complaints of unfair dismissal and disability discrimination which had been presented out of time. Judgment was given orally and the short judgment to that effect was sent to the parties on 13 June 2017.
2. Mrs Hardie sought assistance from her MP who wrote to the tribunal on her behalf on 24 July. Mrs Hardie also sent an email to the tribunal stating that she wished to appeal the judgment. By letter of 3 September she was informed that she could request reconsideration or appeal to Employment

Appeal Tribunal. On 26 September 2017 solicitors acting on behalf of Mrs Hardie made an application for reconsideration and sent a written and signed statement by Mrs Hardie in support. It seemed to the employment judge who had dealt with the matter that Mrs Hardie would benefit from reading the reasons for the judgment (which had not been previously requested) and those were then sent on 2 November 2017. The application for reconsideration out of time was then renewed.

3. The application states that it is in the interests of justice for the claims to be heard and that there is little prejudice to the respondent, the claim being "*only 26 days out of time*". Mrs Hardie's statement makes reference to her understanding and belief that Mr Hardie had contacted ACAS and intended to bring a claim. She also refers to Mr Hardie's mental health and the circumstances of his sudden death.

### **The relevant rules**

4. I have considered the matter under the reconsideration rules in Employment Tribunal Rules of Procedure 2013 as above. There is a 14 day period for a party to apply in writing for a reconsideration. The application was made after that period had expired but it seems sensible to give it due consideration in the circumstances.
5. The judge must consider whether it is in the interests of justice to reconsider the judgment and, if so, can confirm, vary or revoke that judgment. Rule 72 provides that an employment judge shall refuse the application if there is no reasonable prospect of the judgment being varied or revoked.

### **Reconsideration conclusions**

6. It is not in the interests of justice to reconsider the judgment made in May. The matter was fully considered at the hearing. I heard evidence, saw documents and heard argument from both sides. I do not believe that there is any new information in Mrs Hardie's recent statement which was not considered by me at the preliminary hearing in May. I read the text messages referred to and heard evidence about Mr Hardie's health. I weighed those considerations with others because the claim had been presented out of time.
7. Although Mrs Hardie is of the view that early conciliation had started, on the information before me, I did not reach that conclusion. There is no reasonable prospect of the preliminary hearing judgment being revoked. The time limits are strict and there was insufficient evidence before me to persuade me to exercise my discretion to extend those time limits. The circumstances of the case are sad and I have some sympathy for Mrs Hardie but I do not accept that the judgment should be reconsidered.

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**Employment Judge Manley**  
**South East Region**  
Dated 13 December 2017

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**Judgment sent to the parties on**

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**For Secretary of the Tribunals**