



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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**Case No: S/4105346/2017**

**Hearing Held (on written application only) at Aberdeen on 10 January 2019**

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**Employment Judge: Mr A Kemp (sitting alone)**

**Mr Lee Cox**

**Claimant  
In person**

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**Bluebird Buses Limited**

**Respondents  
Represented by:  
Mr S McLaren  
Solicitor**

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**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

30 The Claimant's application for reconsideration is refused.

**REASONS**

35 **Introduction**

1. The Claimant claimed unfair dismissal in respect of his dismissal by the Respondents on 29 June 2017. The final hearing took place on 30 and 31 July 2018. On 8 August 2018 I issued a Judgment dismissing the Claim.

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The Claimant thereafter sought a reconsideration of that Judgment which I refused on 8 October 2018.

2. The Claimant again seeks a reconsideration of that Judgment, by an email dated 4 January 2018, in particular asking that I allow him to lead further evidence regarding the treatment of another employee of the Respondents in respect of an incident said to have taken place on 22 December 2018, and again to view CCTV footage.

### The Law

3. The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 set out the Rules of Procedure in Schedule 1, and those in relation to the reconsideration of judgments are at Rules 70 – 73. The provisions I consider relevant for the present application are as follows:

#### **“70 Principles**

A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ('the original decision') may be confirmed, varied or revoked. If it is revoked it may be taken again.

#### **71 Application**

Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.”

4. When considering such an issue regard must also be had to the overriding objective, quoted in full in the first Judgment I gave. I set out the law relating to applications for reconsideration in the second Judgment I gave, in particular as found in ***Serco Ltd v Wells [2016] ICR 768***, and the quotations from that case I referred to.

### **Discussion**

5. The Claimant has raised the present application far outside the 14 day period to do so under the Rule. For that reason alone I do not allow the reconsideration.

6. Separately, the basis of it is I consider unfounded. It is trite law that the fairness of a dismissal is judged by the circumstances at the time of that dismissal. What happens subsequently cannot affect that issue of fairness.

### **Conclusion**

7. I have decided to reject the application for reconsideration accordingly.

**Employment Judge: Alexander Kemp**  
**Date of Judgment: 10 January 2019**  
**Entered in Register: 11 January 2019**  
**Copied to Parties**