



# EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms Bridget Lock

v

Marks and Spencer Plc

## Reasons - Request for reconsideration

1. In an email dated 19 February 2019 (the “February 2019 email”) the claimant makes a request for a reconsideration of the oral judgement given on 25 January 2019 (the “Judgement”) sent in writing to the parties on 4 February 2019.
2. Rule 72 of Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 sets out the procedure when deciding an application under rule 71. It sets out the following:

*“If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application...”*

3. Rule 70 of Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 sets out the following:

*“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.”*

4. The first section of the appellant’s application for reconsideration disputes the legal classification of the claims which is identified in the judgement. I find that even if all the claims were classified as the claimant alleges the test relating to whether or not the claimant’s claims were out of time remains the same. Therefore the claimant’s submissions in this regard are not material.

5. The claimant's application submits that she was not given an opportunity to state why the claim should not be struck out. At the 25 January 2019 hearing evidence was sought from the claimant about the circumstances surrounding the submission of her claim to the Employment Tribunal and reasons for the delay. I considered that I had the relevant and sufficient facts to make my decision on 25 January 2019 and there is nothing in the claimant's application which materially differs from those facts. The claimant attended the 25 January 2019 hearing, she represented herself, she was asked a number of questions by Mr Green and me and she was given fair opportunity to present her case. The appellant was on notice that the purpose of the preliminary hearing was to determine the time issue and therefore the claimant had an opportunity to present her case which she had clearly done.
6. The appellant's application also makes reference to the merits of the case. However I consider that the circumstances of this case do not indicate that the merits are relevant to the tests concerning time limits which are what were in issue.
7. The application repeats the claimant's submission that it was reasonable for her to rely on advice she had been given from ACAS. I consider that this is re-arguing a point that was dealt with on 25 January 2019 and there is nothing new in this regard in the appellant's application. The claimant's submission is a disagreement with the judgement.
8. The application makes complaints that not everything that was said at the 25 January 2019 hearing was recorded in the judgement. The judgement is not a transcript of the hearing and it does not and is not required to record everything that was said.
9. The application makes reference to the respondent submitting a written document at the 25 January 2019 hearing and that this was unfair to the claimant. This document was the respondent's skeleton argument. It is common practice for them to be presented to the party and the tribunal at the start of the hearing. I do not accept that there was any unfairness to the claimant in the respondent presenting to the claimant and the tribunal the written skeleton argument and relying on it.
10. I conclude that there are no reasonable prospects of the original decision being varied or revoked.

## **Judgment**

11. The claimant's application for reconsideration dated 19 February 2019 is refused.

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Employment Judge Bartlett

Date: 7 March 2019

Sent to the parties on: 13 March 2019

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For the Tribunal Office