



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr M Jasim**

**Heathrow Airport Limited**

## JUDGMENT ON RECONSIDERATION

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

Upon the respondent's application made by email of 13 May 2019 to reconsider the decision contained in a letter of 5 May 2019 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing:-

The application to reconsider is refused as there is no reasonable prospect of the decision being varied or revoked.

## REASONS

### **Introduction**

1. By a claim form presented on 12 December 2018 the claimant presented claims of public interest disclosure and trade union detriments. The response was presented on 22 February 2019. The respondent defended the claims and asked for further particulars from the claimant. An order, made by Employment Judge R Lewis, for the claimant to provide answers to that request by 8 April 2019, was sent to the parties on 17 March 2019.
2. On 5 April 2019 the claimant responded that he was having difficulties communicating with his solicitors and was unable to respond as he did not "*have the legal expertise to do so*". By email of 15 April 2019 the respondent's representatives (who might not have seen the claimant's email at that point) asked for a strike out or unless order. By email of 16 April 2019 the claimant raised concerns about the respondent's representatives communicating with his (perhaps former) solicitors. As a closed preliminary hearing was already listed for 9 September 2019, I took the view that case management matters should be dealt with there as the claimant was unrepresented (or in dispute with his solicitors).

3. By email of 13 May 2019 the respondent's representatives asked me to reconsider that decision on the grounds that it was not conducive to effective case management of the proceedings. By email of 16 May 2019, a different firm of solicitors came on the record for the claimant. They asked for a postponement of the preliminary hearing in September which the respondent's representative did not oppose. They also said they were open to discussing matter with the respondent's representatives. In the light of these comments, I asked the respondent's representatives whether they wished to pursue the reconsideration application.
4. By email of 22 August 2019 the respondent's representatives confirmed that they wished to pursue the application for reconsideration of my 5 May decision. For reasons I am not aware of, but may be because of the extraordinary pressures the employment tribunals are currently working under, this file was not handed to me for consideration until 23 October 2019.

## Rules

5. The relevant employment tribunal rules for this application read as follows:

### *RECONSIDERATION OF JUDGMENTS*

#### *Principles*

*70. 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.*

#### *Application*

*71. 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.*

#### *Process*

*72.—(1) An Employment Judge shall consider any application made under rule 71. 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.*

6. My task is to consider whether a reconsideration is in the interests of justice. Where I consider there is no reasonable prospect of the decision being varied or revoked, under Rule 72, the application shall be refused.

**Conclusions**

7. I am not going to reconsider a case management decision I made in May 2019. It was made on the basis of the information before me at the time. The claimant did not have legal representation at that point, or he was in dispute with them. Once he changed solicitors, it appeared that the information requested could be given voluntarily. It is certainly not in the interests of justice to reconsider case management decisions in on ongoing case with legally represented parties able to communicate with each other.
8. The next preliminary hearing is not until April 2020 because of the delays we currently have in the employment tribunals. My expectation is that the representatives will communicate with each other, supply that information which it is right to supply. If absolutely necessary, further application can be made to the tribunal for orders.

Dated: 7 November 2019

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**Employment Judge Manley**  
**South East Region**  
  
... **13 November 2019**.....  
**Judgment sent to the parties on**  
  
.....  
**For Secretary of the Tribunals**