



# EMPLOYMENT TRIBUNALS

**Claimant:** David Shetly  
**Respondent:** Pear Tree Properties Limited  
**Before:** Employment Judge Mr. M. Salter

## JUDGMENT ON RECONSIDERATION

Upon the Claimant's application made by email of 18 September 2019 to reconsider the decision contained in the Judgment of 13 September 2019 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing:-

The application to reconsider is refused as it is not in the interests of justice to reconsider the Judgment.

## REASONS

### The Procedure

1. By Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a Judgment where it is necessary in the interests of justice to do so. On reconsideration, the Judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record (in this case the written record being the Judgment promulgated on 13<sup>th</sup> September

2019) was sent to the parties. I shall now refer to this as *'the Judgment.'*

3. Under Rule 70, a Judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a Judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
4. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are reasonable prospects of the Judgment being varied or revoked. Essentially, this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient for an applicant to apply simply because the party applying disagrees with the decision
5. If the Employment Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon the considering of the application upon the papers initially is to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of reconsideration hearing.

#### The Application

6. On 18<sup>th</sup> September 2019 the claimant sent an email to the Employment Tribunal in which he applied to appeal the quantum of costs I awarded against him in the Judgment. Plainly, this was effectively an application by the claimant for reconsideration of the Judgment and it was presented within the relevant time limit provided for in the Rules.
7. This application was not copied into the Respondent and so the tribunal caused it to be seeking clarification on whether the parties required this matter to be dealt with at a Hearing.

8. The Respondents provided a response but neither they, nor the claimant addressed whether they required a hearing on this matter. Again the tribunal contacted the parties seeking any submissions on a hearing. No responses were received from either party.
9. I consider that, in the interests of justice a hearing is not necessary on this matter as the issue is narrowly defined; I have both parties' submissions on this point, indeed, as the Claimant points out, I heard submissions on the point of the reconsideration at the hearing in September, and both parties have had reasonable opportunity to request a hearing and provide submissions.
10. The application attempts to re-argue that which I have already considered and decided. There is no clear reason given as to why it would be in the interests of justice to reconsider.
11. The interests of justice do not require there to be a reconsideration of the Judgment. Accordingly, the application for reconsideration fails and stands dismissed.

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Employment Judge M. Salter

Date Tuesday, 17<sup>th</sup> December 2019

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.