



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Tracey Hartley

**Respondent:** HM Courts and Tribunal Service

## JUDGMENT

The claimant's application is made outside the time limit for making an application for reconsideration and is dismissed.

## REASONS

### Introduction

1. This claim was heard at Bristol on 20-22 January 2020. The Tribunal gave its Judgment and reasons orally to the parties on the morning of 22 January 2020 and thereafter the judgment and reasons were sent to the parties.
2. On 18 January 2021 the Claimant corresponded with the Employment Tribunal by email. REJ Pirani considered that the correspondence may amount to an application for reconsideration of the original judgment. On 22 January 2021 the Claimant confirmed that she wished her email to stand as her application for reconsideration.

### BACKGROUND

3. The Claimant had commenced proceedings in the Bristol Employment Tribunal in July 2014 alleging unfair dismissal and direct race discrimination concerning that dismissal. For the reasons set out in the reasons accompanying the original Judgment this claim did not come on for final hearing until 20-22 January 2020.
4. After hearing the evidence and submissions from both parties the Claimant's claims of race discrimination and unfair dismissal were dismissed.
5. The provisions governing applications for reconsideration are set out in rules 71-72 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (hereinafter referred to as the Rules).
6. Rule 71 requires a party who seeks reconsideration to send a written application to the Tribunal explaining why reconsideration is necessary within 14 days of the date upon which the original judgment had been sent to the parties.

7. Clearly, this application is made well outside the time limit. Indeed, it is almost 11 months out of time. However, I have a discretion to extend time under rule 5 of the Rules.
8. If I was to extend time for making an application then under rule 72 when considering an application for reconsideration I have to consider whether there is a reasonable prospect of the Judgment being varied or revoked. In that regard I note that in her application the Claimant stated that the Judgment was biased. Her reasons for that contention are, firstly, that on the day of the hearing she was presented with “case studies” which were not given in advance. She claimed she did not have much time to read them, but felt under pressure to continue. She points out that she did not have legal representation.
9. Secondly, the Claimant stated that she had disclosed evidence which was sent to a Tribunal *“prior to the hearing for clarification, but these documents were not added to the papers. I had made it clear to [the Tribunal] that these documents were to [be] added to my case papers. During the hearing I had asked for a short break to sort these documents, but they could not be found. I also approached the respondent’s, during the hearing about this, but she refused to say anything in the court on the day. All other clarifications were lodged, but mine were not.”*

## FINDINGS

10. The Claimant in her correspondence with the Tribunal contends that she had contacted the Tribunal and spoke to someone called Hannah on 22 January 2020. The Claimant stated she told Hannah that she had not heard from the Tribunal regarding appealing against the Judgment and she was told that the Tribunal would be in contact.
11. The Claimant says she made further contact by email on the 1 February 2020 by email. As there was no response so she stated that she had contacted the Tribunal again by telephone but the *“phone kept cutting off, so thought you had been closed during the 1st lockdown. As time was passing through I would chase it up again.”*
12. I find that there is an abundance of information from the Employment Tribunal Service in the public domain about the rights of a party dissatisfied with a Tribunal Judgment. I am also somewhat surprised that she would have telephoned the Tribunal on the same day of the Judgment being handed down to complain she had not yet received anything in writing.
13. Even if the Claimant is correct that she contacted the Tribunal offices she had ample time to submit a formal application for reconsideration well before the Covid pandemic restrictions began to come into force. Thereafter, I find that no reasonable person would have considered that the Employment Tribunal offices were completely closed and, in any event, as the months proceeded it is quite apparent that the Claimant did absolutely nothing to further her application. She could have emailed her application for reconsideration or sent a letter which would have, in a sense, ‘stopped the clock’.

14. The Claimant has failed to provide any reasonable explanation for the delay in pursuing this matter. I find that she has delayed the application unnecessarily and without good reason. Furthermore, the Respondent is entitled to expect that that the decision given back in January 2020 was final unless it contained an appealable point of law and attempting to resurrect this claim almost a year after the decision was given risks an injustice to the Respondent in what is already a very stale case.
15. As to the merits of the application the case studies referred to by the Claimant in the application were a few authorities relied upon by the Respondent. The Tribunal notes that the submissions on the evidence did not take place until the second day of the hearing and the Claimant had sufficient time to prepare for any submissions she wished to make. The Claimant made no complaint that she had not had sufficient time to prepare her case.
16. As to documents missing from the bundle the Tribunal was not informed of any missing documents. No application was made by the Claimant for enquiries to be made as to their whereabouts and it is perhaps of some significance that the Claimant had not brought any such documents with her to the Tribunal on either the first or the second day of the hearing.
17. When considering her current application I asked for sight of the documents referred to by the Claimant. She sent in some documentation. I have read the documents referred to by the Claimant. In her application the Claimant makes no submissions on their relevance to the outcome of the original hearing and from my perusal of them they would not have made any difference to the outcome of the proceedings even if she had submitted them to the Tribunal.
18. The application for reconsideration is wholly without merit. There would be no prospect of the original decision being varied or revoked.
19. Considering and weighing up the relevant factors as set out above, I do not consider it just to extend the time for making this application. In any event, even if I had extended time the application for reconsideration would have been refused on its merits.

**Employment Judge Walters**

**Date: 24 March 2021**

Date Judgment and Reasons sent to the parties: 26 March 2021

FOR THE TRIBUNAL OFFICE