



# EMPLOYMENT TRIBUNALS

**Claimant:** Rev I Ibe

**Respondents:**

1. Total Feffex Security Limited
2. Mr J Thornton

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The claimant's application dated 20 April 2021 for reconsideration of the Tribunal's judgment sent to the parties on 25 February 2021 is refused under rule 72(1) of the Employment Tribunals Rules of Procedure 2013 as there is no reasonable prospect of the judgment being varied or revoked.

### REASONS

1. The claimant, Rev Ibe, has applied by letter dated 20 April 2021 for reconsideration of the judgment in this case, sent to the parties on 25 February 2021, striking out his claims under rule 39(4) of the Employment Tribunals Rules of Procedure 2013 for failure to pay deposits ordered by the Tribunal in respect of such claims in a document sent to the parties on 6 January 2021.
2. The Deposit Order, made by Employment Judge Little at a preliminary hearing on 18 December 2020, required payment of the deposits, totalling £150.00, by no later than 21 days from when the order was sent to the parties, that is by 27 January 2021. As set out at paragraph 5 of the Tribunal's Reasons for the Deposit Order, separate deposits of £25.00 each were ordered in respect of the claimant's six claims in the case, but the Deposit Order at paragraph 2 identifies them as a whole as a single deposit totalling £150.00, and I shall do the same for convenience.
3. The claimant did not pay the deposit by the due date. He did not request an extension of time to pay (or communicate with the Tribunal in any other way about the Deposit Order). The Tribunal sent the judgment striking out the claims under rule 39(4) to the parties on 25 February 2021.

4. On 5 March 2021 the claimant wrote to the Tribunal as follows:

*“Following my discussion with your member of staff and my explanation to the Employment Tribunals Courts Judge at the preliminary hearing listed on 18 December 2020 that I will be making the payment of the deposit order on 15 March 2021.*

*I write to confirm that I will definitely make the payment of deposit order on the 15 March 2021.”*

5. The Tribunal wrote to the claimant in reply on 22 March 2021, referring him to the Tribunal’s judgment sent to the parties on 25 February 2021. Meanwhile, on 12 March 2021, the claimant had paid the deposit of £150.00. The claimant applied for reconsideration of the judgment on 20 April 2021. I shall refer to the grounds of his application when giving my decision below.

6. Rules 70-73 of the Employment Tribunals Rules of Procedure 2013 set out the process for reconsideration of judgments.

7. Rule 71 provides that an application for reconsideration shall be presented in writing (and copied to all other parties) within 14 days of when the written record of the original decision was sent to the parties, and shall set out why reconsideration of the original decision is necessary.

8. As I have said, the strike out judgment was sent to the parties on 25 February 2021, meaning the application should have been made by 11 March 2021. It was made on 20 April 2021, almost six weeks late. It contains no explanation for the delay. Further, it was not copied to the respondents.

9. Under rule 72(1), if an Employment Judge considers there is no reasonable prospect of the original judgment being varied or revoked, the application shall be refused and the Tribunal shall inform the parties of that decision.

10. The claimant says in the application that at the preliminary hearing when the deposit order was made, he told Employment Judge Little that he would definitely pay the deposit order by 15 March 2021 and the Employment Judge said, “that will be fine”. He says that it was difficult to raise the deposit because of the position the respondents had put him in during the pandemic and as he has paid the deposit, there is no reason why his claim should not be restored “for justice purposes”.

11. I refuse the application under rule 72(1). There is no reasonable prospect of the judgment being varied or revoked. My reasons are these.

12. First, the application is out of time under rule 71. The claimant gives no explanation for the delay nor applies for an extension of time. Even if he might have thought that he had until 15 March 2021 to pay the deposit, which for the reasons in the following paragraph, I do not accept, the Tribunal’s letter of 22 March 2021 advised him that judgment had already been issued. He waited a further month before making the application, which delay is wholly unexplained.

13. Second, the Deposit Order clearly set out (at paragraph 2) the time for payment, and at paragraphs 3 and 5 of the accompanying notes, the consequences if the deposit was not paid. The claimant's contention that Employment Judge Little agreed at the preliminary hearing on 18 December 2021 that it "will be fine" if he paid the deposits by 15 March 2021 is wholly implausible; most importantly, it is inconsistent with the terms of the Deposit Order, which I note the claimant did not challenge upon receipt or before the date set in it for payment, and it is impossible to see why the claimant would have said, and the Employment Judge should have agreed, that he could pay by some random date three months in the future. If the claimant was encountering difficulty in raising the funds, he could and should have applied for more time, although I note he gives no information about his financial situation or efforts to find the required funds.

14. My decision, therefore, is to refuse the application for reconsideration, under rule 72(1). There is no reasonable prospect of the judgment being varied or revoked. The judgment striking out the claimant's claims therefore stands.

Regional Employment Judge Robertson

29 April 2021