



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs M Correia  
**Respondent:** Atalian Servest Ltd  
**In Chambers:** On: 27 May 2021  
**Before:** Employment Judge Gray

## RECONSIDERATION JUDGMENT

The application for reconsideration is refused.

### REASONS

1. The Claimant has applied for a reconsideration of the reserved Judgment dated 17 March 2021 which was sent to the parties on 23 March 2021. The grounds are set out in an attached letter to the Claimant's email dated 24 May 2021 which was received by the tribunal office on 24 May 2021.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The Claimant's application has therefore not been made within the relevant time limit.
3. Under Rule 5 the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired. By correspondence from the Tribunal to the parties dated 29 April 2021 it was confirmed to the Claimant, "...In view of the sick notes running to the 30 April 2021, the Tribunal can give the Claimant until **7 May 2021** to provide her reply to the Tribunal's letter.". The Claimant may have assumed from this correspondence that she had until then to submit an application for reconsideration, however, the application was not submitted until over two weeks after that date, so was still outside of any perceived time limit. Accompanying her application for reconsideration the Claimant does provide copies of her GP sick notes the last of which signs her unfit for work until the 17 May 2021. Being signed unfit for

work is not the same as being unable to submit an application for reconsideration, which is now significantly outside the usual 14-day time limit. In her application letter the Claimant says .... "I would like also to ask my sincere apologies for not replying earlier as I been away from the pc for a while, I wasn't in condition in checking my emails.". This does not in my view appear sufficient evidence to justify an extension of time to submit an application for reconsideration. However, I have gone on to consider the grounds the Claimant submits for making an application for reconsideration.

4. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
5. Pursuant to Rule 72(1) if an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked that application shall be refused and the parties informed of that refusal.
6. I consider that there is no reasonable prospect of the original decision being varied or revoked so refuse the application. The matters the Claimant raises were part of the considerations when the original judgment was made. I would highlight in particular paragraph 53 of the Judgment ... "53. The Claimant may have misunderstood what the Respondent, through Luis Henrique-Siqueira was offering or promising, but whatever was agreed at that time would be a matter of contract only, and it was agreed and in place between the Claimant and the Respondent directly, before any possible TUPE transfer of her employment from TCFM could have happened. Correspondence from the Respondent on or after the relevant transfer date suggesting the Claimant had TUPE transferred does not mean that the Claimant did so as a matter of law.".

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Employment Judge Gray

Date: 27 May 2021

RECONSIDERATION JUDGMENT SENT TO THE  
PARTIES ON

Date: 08 June 2021

By: Mr J McCormick

FOR THE TRIBUNAL OFFICE

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