



EMPLOYMENT TRIBUNALS

Claimant: Ms. S. Messi

Respondent: Prêt-a-Manger (Europe) Ltd

**London Central
Employment Judge Goodman**

ORDER

The claimant's application for reconsideration dated 29 June 2021 is refused under rule 72 as it has no reasonable prospect of success .

REASONS

1. On 29 June 2021 the parties were sent the decision of the tribunal panel that had heard her discrimination claim, ordering her to pay the respondent's costs in the sum of £15,000.

2. Later that day the claimant emailed the tribunal applying for reconsideration in these terms:

Good Morning ET

Asking for reconsideration and I believe the same judge who decided to go ahead with the postponement is the same judge who did not consider my affordability to pay knowing my circumstances despite sending it to it.

I am not able to pay this at all and if the respondent representative comply me to do so, I will again send evidence as such to the court and ET

Very bias decision by the judge.

I will also take this to the EAT

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3. The email subject line of the email said:

Asking for RECONSIDERATION based on my circumstances that the same judge did NOT consider.

4. This email was forwarded to me yesterday.

Relevant Law

5. Under the Employment Tribunal Rules of Procedure 2013 a request for reconsideration may be made within 14 days of the judgment being sent to the parties. By rule 70 a Tribunal “may reconsider any judgment where it is necessary in the interest of justice to do so”, and upon reconsideration the decision may be confirmed varied or revoked.
6. Rule 72 provides that an Employment Judge should consider the request to reconsider, and if the judge considers there is no reasonable prospect of the decision being varied or revoked, the application shall be refused. Otherwise it is to be decided, with or without a hearing, by the Tribunal that heard it.
7. Under the 2004 rules prescribed grounds were set out, plus a generic “interests of justice” provision, which was to be construed as being of the same type as the other grounds, which were that a party did not receive notice of the hearing, or the decision was made in the absence of a party, or that new evidence had become available since the hearing provided that its existence could not have been reasonably known of or foreseen at the time. The Employment Appeal Tribunal confirmed in [Outasight VB Ltd v Brown UKEAT/0253/14/LA](#) that the 2013 rules did not broaden the scope of the grounds for reconsideration (formerly called a review).
8. When making decisions about claims the tribunal must have regard to the overriding objective in room 2 of the 2013 regulations, to deal with cases fairly and justly, which includes ensuring that the parties are on an equal footing, dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delay, and seeking expense.
9. As to *who* should reconsider the judgment, Rule 72(3) says:

Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Discussion and Conclusion

10. It is practicable for me to make the decision. The claimant is aggrieved by the hearing on 4 March continuing after she left when her postponement application did not succeed, and has indicated she is appealing. I have not seen any notice of appeal she has filed and do not know if bias is alleged or on what grounds. In any case a bare allegation of bias does not make it impracticable for me to reconsider. If grounds were shown I should make a reasoned decision on recusal, but they are not.

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11. The grounds given in the claimant's 29 June email are: (1) her ability to pay was not taken in to account and (2) the judge was biased.
12. On ability to pay, the written reasons set out what information was available to the tribunal in the form of the claimant's emails, and the panel considered what she had told us, and what the respondent had found about home ownership. Her means were taken into account, and notwithstanding her limited resources we made the order for the reasons given.
13. On bias, the claimant makes the allegation without explaining why. A bare allegation is not grounds to reconsider.

Employment Judge GOODMAN

Date 6 July 2021

JUDGMENT SENT TO THE PARTIES ON

06/07/2021

FOR THE TRIBUNAL OFFICE