



# EMPLOYMENT TRIBUNALS

**Claimant:** Christine Doddington

**Respondents:** Paul Poppy (1)  
Sally Jane Poppy (2)  
Brian Poppy (3)

**Heard at:** Norwich (paper application)      **On:** 03 September 2021

**Before:** Employment Judge Housego

## **Representation**

Claimant: None  
Respondent: Email application

## **JUDGMENT ON RESPONDENT'S APPLICATION FOR RECONSIDERATION**

**The judgment of the Tribunal is that the 1<sup>st</sup> Respondent's application for reconsideration of a costs order dated 19 July 2021 is refused because there is no reasonable prospect of the decision being varied or revoked.**

## **REASONS**

### **Background and history**

1. At a hearing on 21-23 March 2021 the Claimant's claim succeeded.
2. A costs application was then made, and on 19 July 2021 the Tribunal made a costs order.
3. The 1<sup>st</sup> Respondent has applied by email dated 27 August 2021 for the order to be reconsidered.

4. The application was made exactly 14 days after the costs order was promulgated and so it was made within the time limit contained in the Rules.
5. The Claimant has not responded to the application.

#### Relevant Rules

6. The relevant procedural rules are in Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Those relevant Rules are as follows:

#### *RECONSIDERATION OF JUDGMENTS*

##### ***Principles***

**70.** *A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.*

##### ***Application***

**71.** *Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.*

##### ***Process***

**72.—(1)** *An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.*

*(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge*

*considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.*

*(3) 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.*

**Reconsideration by the Tribunal on its own initiative**

**73.** *Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).*

The application

7. The application was follows;

paul poppy [email address redacted]  
Fri 27/08/2021 10:09

?

To:

- O'Reilly, Josephine;
- Amber McLaughlin [address redacted];
- Doug Frame [address redacted]

Case 3314025/2019 DODDINGTON VS POPPY  
APPLICATION FOR COSTS JUDGMENT RECONSIDERATION

Dear sirs, i would like employment judge housego to reconsider the tribunal costs judgment on the points raised below.

I, Mr Paul Poppy fully accept the unfair dismissal and discrimination to miss doddington, i have paid the price for not taking advice but feel i am being vindicated to have to pay her costs. My parents have paid the £23589.00 without question but as i took the decision to take this matter to tribunal, myself alone have agreed to pay them back at £1000 per month, this will take me 2 years to pay back, any further cost will financially ruin me.

Myself and wife have 3 dependent children and we have to now live on my wifes wages each week £240 and this is putting immense pressure on our health and family.

I fully understand that i did not challenge miss doddingtons witness statement, something that i regret immensely, i came into the tribunal and completely froze, panicked and let things get out of hand.

Had i cross examined miss doddingtons witness statement , i have no doubt that a different outcome would have been reached with much less financial burden to my family.

I accept that i did not pay notice pay and the way i acted was completely unacceptable in a court of law, but what are you trying to do to me, i am a genuine hardworking man and i am struggling to find a way through this matter, my health has deteriorated, myself, wife and family have just got over covid 19 resulting in the business being closed for 10 days in peak season, there is no financial help for businesses that have to close due to this matter.

I feel that miss doddingtons solicitor is trying to make me out as a villain, with references to trip advisor reviews that our business has no control over, and this hurts me, we have run the business successfully for over 16 years and have never had anything like this happen before, we have a very low staff turnover, great reputation and i can assure you that im not the person that the solicitor is trying to make you believe i am.

I understand that we are jointly and severally liable for costs but i tried my hardest to keep my parents out of this matter as they have been retired for years, regardless of my father still being licensee, i can assure you that they have no input to the day to day running of the business, it is run successfully by myself and wife.

In the interests of justice i think i have suffered enough and to make me pay further costs would probably finish the business and leave myself and family on serious hard times.

Please re-consider your judgment.

Yours sincerely  
Mr Paul Poppy

8. This contains 9 points:

- 8.1. He feels victimised by the order (accidentally the wrong word is used).
- 8.2. He is paying the award personally by repaying his parents, who settled the judgment.
- 8.3. It will be ruinous for him.
- 8.4. They live on his wife's earnings of £240 a week, and he cannot afford it.
- 8.5. Had he cross examined the Claimant the outcome would have been different.
- 8.6. He had closed the pub for Covid 19 reasons in high season which had a big impact on the business.
- 8.7. The quotation from trip adviser reviews was unfair and he had run the pub, and worked hard, for 16 years.
- 8.8. He had tried his hardest to keep his parents out of the matter.
- 8.9. He had suffered enough for his admitted failings in the way he had dealt with the matter.

9. On one of these points Mr Poppy is correct. The trip adviser comments cited in the costs application were irrelevant and should not have been part of the costs application. The Tribunal ignored them.
10. Mr Poppy is not victimised by the order. The order was no more than the application of the Rules governing the Tribunal's procedures to the set of facts found by the Tribunal on the evidence before it. Mr Poppy is not victimised because he lost. The costs order is no more than the result – the consequence - of the way the case was handled by the Respondents.
11. All three Respondents are liable to the costs order, as they were for the remedy judgment. It is a matter for the three Respondents as to how they meet the liability. It is not said to be ruinous for the other two Respondents, against whom the Claimant may choose to enforce the order. How the Respondents then apportion the cost is a matter for them. There is no reason relating to the ability of the three Respondents, as a group, to reconsider the order.
12. I do not doubt but that Mr Poppy is repaying his parents as he says, and that this causes his personal finances strain, such that he is reliant on his wife's earnings. This is not good reason to remove from the Claimant the benefit of the costs order to which the Tribunal decided she was entitled. This is a matter between the three Respondents.
13. The argument that had he conducted the case better he might have won it, or suffered a lesser award, is not one that can lead to a reconsideration. The judgment was made on the way the case was conducted, and the Tribunal went to considerable effort to make sure that the Respondents, acting in person, were assisted to put forward what they had to say. (To explain, a football match may be lost because an open goal is missed: it is no argument to say that the relegation which results should be avoided as that match should have been different.) There was, in any event, little that could have been done in cross examination to alter the result, which stemmed largely from the evidence put forward by the Respondent's witnesses.
14. The Covid-19 illness is unfortunate, and doubtless did have an effect on the business. It does not alter the fact that the Respondents have, between them, the resources to meet the costs order.
15. The trip adviser reviews are, as stated, irrelevant and their use in the application regrettable. That is not reason to avoid the costs order.
16. Mr Poppy had kept his parents from the matter: that is a matter for him and for them.
17. Mr Poppy says that he has suffered enough. The consequences of the original judgment are undoubtedly financially painful for Mr Poppy, but the Claimant

should not be deprived of the costs order to which the Tribunal decided she was entitled because one of three Respondents has decided to take responsibility for the judgment and costs order.

Conclusion

18. Accordingly, the application for a reconsideration of the judgment of 19 July 2021 is refused, as it has no reasonable prospect of success.

Employment Judge Housego  
Dated 03 September 2021

JUDGMENT SENT TO THE PARTIES ON  
22<sup>nd</sup> September 2021

.....  
THY

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FOR THE TRIBUNAL OFFICE