



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Scott  
**Respondent:** ISS Facility Services Ltd

## JUDGMENT

The Claimant's application dated 10 November 2021 for reconsideration of the Reserved Judgment and Reasons dated 29 October 2021 is refused. There is no reasonable prospect of the original decision being varied or revoked.

## REASONS

### The application

1. On 10 November 2021, the Claimant made an application for reconsideration of the Employment Tribunal's Reserved Judgment & Reasons (the "decision") which is dated 29 October 2021 and was sent to the parties on 4 November 2021.
2. The application states that the Claimant would like to pursue not only an appeal but a reconsideration of the decision. Of course an appeal is not a matter for this Tribunal. I have already instructed the Tribunal's administration to write to the Claimant advising him that he should direct any appeal to the Employment Appeal Tribunal as set out in the letter accompanying the Judgment. This Tribunal can only deal with his request for a reconsideration of the decision.

### The Tribunal Rules on Reconsideration

1. Under the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1:

*“(Rule) 70. Principles*

*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.*

...

72.— Process

*(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.”*

2. The Employment Appeal Tribunal has given guidance as to the nature of a request for reconsideration:
  - a) Reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to re-argue matters in a different way or adopting points previously omitted.
  - b) There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule.
  - c) It is not a means by which to have a second bite at the cherry, or is it intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.
  - d) Tribunals have a wide discretion whether or not to order reconsideration. Where a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.

## Conclusions

3. The Claimant's application sets out a series of questions and challenges to the findings and conclusions reached by a full Employment Tribunal panel after hearing evidence over a period of 4 days and after a further day in which we met in private to carefully consider the evidence and submissions that we heard and to reach our decision.
4. The Claimant's application also raises new matters in broad terms which do not raise anything of substance so as to provide him with grounds on which to challenge the decision. Further, there is no obvious reason why the Claimant could not have advanced these matters at the hearing. Indeed, during the hearing, the Claimant was given the full opportunity to provide evidence, to ask questions of the Respondent's witnesses and to make submissions.

5. It is clear from the application that the Claimant simply does not accept the Tribunal's decision.
6. In the circumstances, after considering the Rules and the Employment Tribunal Appeal's guidance, I have reached the conclusion that the Claimant's application should be refused. There is no reasonable prospect of the original decision being varied or revoked on the grounds raised.

Employment Judge Tsamados

Date: 19 November 2021