



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

**Respondent**

**AND**

Mr S Kamalarajan

Shred-it Limited

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**Employment Judge:** A Richardson

**Date:** 16<sup>th</sup> November 2021

### JUDGMENT ON THE CLAIMANT'S APPLICATION FOR RECONSIDERATION OF THE JUDGMENT OF 1<sup>st</sup> OCTOBER 2021

#### The Judgment of the Tribunal is

- (1) the claimant's application for reconsideration of the Judgment dated 1<sup>st</sup> October 2021, sent to the parties on 20<sup>th</sup> October 2021 was made in time.
- (2) There are no grounds for the decision to be reconsidered under Rule 72 and there is no reasonable prospect of the decision being varied or revoked.
- (3) The application for reconsideration is therefore refused.

#### REASONS

1. By email dated 29<sup>th</sup> October 2021 the claimant seeks a reconsideration of the judgment which ruled that his claims for unfair dismissal and disability and race discrimination were brought out of time. In respect of the former, it was determined that it was reasonably practicable for the claimant to have brought his claim of unfair dismissal in time. In respect of the latter, it was determined that it was not just and equitable to extend time.

3. Rules 70, 71 and 72 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 schedule 1 provide (so far as relevant):

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. It if is revoked it may be taken again.

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 of 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.

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 provision views on the application.

5. The claimant sets out five grounds to support his application for reconsideration of the award of costs against him. He also submitted three statements of witnesses who supported his claims of race discrimination.
6. The grounds of complaint nos. 1 – 4 refer to the delay by the Tribunal administration in sending him a copy of the case management order of Employment Judge Livesey following a case management preliminary hearing on 24<sup>th</sup> June 2021. The claimant did not take any notes of the directions during the course of discussions at the case management hearing. The directions were sent to the claimant on 9<sup>th</sup> September 2021, three weeks before the hearing on 1<sup>st</sup> October 2021. However the respondent had confirmed in writing to the claimant in early August 2021 what the directions were.
7. The claimant applied for a postponement of the hearing which was refused by an Employment Judge on 30<sup>th</sup> September 2021, the day before the hearing. The claimant attended the hearing. With regard to the fifth ground for the application. The claimant provided no medical evidence that he was not fit to attend and represent himself at the hearing. Despite having had three weeks notice of the preliminary hearing at which the future of his unfair dismissal and race discrimination claims would be decided the claimant made no effort to produce either a witness statement or any documentary evidence.
8. The lateness of directions and the date that the claimant became aware of the directions was taken into account in the oral reasons given to the claimant on

1<sup>st</sup> October 2021. No new grounds have been cited and no medical evidence has been provided. No medical evidence was provided on 1<sup>st</sup> October 2021| the claimant did represent himself and was logical, coherent and appeared to be thinking on his feet, throughout giving no indication of being in any difficulty during the course of the hearing.

9. The additional witness evidence provided now by the claimant is irrelevant to his application to reconsider the judgment as the merits or otherwise of his complaints of unfair dismissal and race/disability discrimination were not taken into account in the decision on the Tribunal's jurisdiction relating to the claims being out of time.

10. There are no grounds for the decision of 1<sup>st</sup> October 2021 to be reconsidered under Rule 72 and there is no reasonable prospect of the decision being varied or revoked. The application for reconsideration is therefore refused.

Employment Judge A Richardson  
Date: 16 November 2021

Judgment sent to parties: 8 December 2021

FOR THE TRIBUNAL OFFICE