



# EMPLOYMENT TRIBUNALS

## Claimant

Mr N Mendy

v

## Respondents

Motorola Solutions UK  
Limited and others

**Heard at:** London Central

**On:** 26 January 2022

**Before:** Employment Judge Hodgson

## DECISION

The claimant application of 29 December 2021 for reconsideration of the order of 8 December 2021 is refused. Further, to the extent the application is an application to vary the case management order of 8 December 2021, it is refused.

## REASONS

1. By order of 8 December 2021, pursuant to rule 29 Employment Tribunals Rules of Procedure 2013, I revoked order 3.5 of the case management orders from 20 November 2020. I gave full reasons, and I do not need to repeat them.
2. On 29 December 2021, the claimant applied for a “reconsideration” of my order of 8 December 2021. The logic of the application is that he wishes me to revoke the order of 8 December 2021 and to reinstate order 3.5 from the case management orders made on 20 November 2020. It is difficult to follow the claimant's reasoning, but he refers to

my decision as being perverse, wrong, full of irregularity, and an example of bias.

3. It is clear that the claimant strongly objects to my order of 8 December 2021.
4. It had been the respondent's position, prior to 8 December 2021, that order 3.5 of 20 November 2020 (order 3.5) should be revoked. Given the claimant's application, I asked the respondent to confirm its current position. The request stated:

**EJ Hodgson notes that the claimant wishes him to revoke the order of 8 December 2021 and reinstate order 3.5 of 20 November 2020. Having regard to all the correspondence, it would appear that both parties maintain that order 3.5 of 20 November 2021 should not be revoked. The respondent is requested to confirm its position by no later than 16:00, 5 January 2021.**

5. On 5 January 2022, the respondent wrote to the tribunal and confirmed that it now accepted that order of 3.5 should be revoked. The letter stated:

**Further to the Tribunal's letter that was sent to us on 30 December ..., we can confirm that the Respondents' position is that EJ Hodgson's order dated 8 December 2021 should stand and should not be revoked. The Respondents do not object to EJ Hodgson's decision to revoke order 3.5 from the case management order of 20 November 2020.**

6. In my decision of 8 December 2021, I gave reasons for why it was in the interest of justice to revoke order 3.5. It is regrettable that the claimant views that decision with suspicion. It is regrettable that it has caused him distress.
7. I have considered the claimant's application of 29 December 2021. I have also considered his representations dated 6 December 2021. The representations dated 6 December 2021 were sent by the claimant late and not until 8 December 2021; they were not considered. I have considered them now. They do not affect the reasons for the decision of 8 December 2021
8. Having reflected on this matter, it is my view that, despite the clear and obvious error I identified, it may have been better not to exercise my discretion and revoke order 3.5. It has led to difficulty which I did not foresee.
9. Had the respondent maintained its position that order 3.5 should stand, I would have been persuaded, despite my reservations expressed in my decision of 8 December 2021, that I should revoke my order of 8 December 2021 and reinstate order 3.5 from 20 November 2020.

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10. It was the respondent's position that order 3.5 was correctly decided. The respondent has changed its position, and now accepts it should be revoked.
11. The claimant considers order 3.5 to be wrong.
12. I accept, given the strength of the claimant's views, that my revoking order 3.5 may have complicated matters and introduced a further layer of difficulty. However, even if I were wrong to have revoked the order, I have made that decision. If I were to reinstate order 3.5, I can only do so if it is in the interests of justice. If the respondent had maintained its view that it wished to argue the decision was correct, I would have been persuaded to reinstate it. I cannot find it is in the interests of justice to reinstate a decision which is objected to by the claimant, not pursued by the respondent, and which I consider to be wrong for the reasons given in my decision of 8 December 2021.
13. I have treated the claimant's application of 29 December 2021 as an application to vary pursuant to rule 29 Employment Tribunals Rules of Procedure 2013. I do not consider that my decision of 8 December 2021 is a judgment. It follows it is not capable of being reconsidered.
14. It appears the claimant's general concern revolves around allegations of irregularity and bias. That is not a matter for me. I cannot see that he is prevented from raising those arguments. I do not see those concerns as a reason for reinstating order 3.5.
15. For the reasons I have given, I decline to vary my order of 8 December 2021.

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Employment Judge Hodgson  
Dated: 26 January 2022

Sent to the parties on:

27/01/2022

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For the Tribunal Office

**NOTES**

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2203335/2020 (p)**

1. Any person who without reasonable excuse fails to comply with an Order to which section 7(4) of the Employment Tribunals Act 1996 applies shall be liable on summary conviction to a fine of £1,000.00.
2. Under rule 6, if this Order is not complied with, the Tribunal may take such action as it considers just which may include (a) waiving or varying the requirement; (b) striking out the claim or the response, in whole or in part, in accordance with rule 37; (c) barring or restricting a party's participation in the proceedings; and/or (d) awarding costs in accordance with rule 74-84.
3. You may apply under rule 29 for this Order to be varied, suspended or set aside.
4. Written reasons will not be provided for any decision unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.