



# EMPLOYMENT TRIBUNALS

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## BETWEEN

**Claimant**

**Respondent**

**Ms A Brito Brito**

**One Step Recruitment Ltd**

**Employment Judge Matthews**

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## **Judgment on Application for Reconsideration**

Acting in accordance with rule 72 of the Employment Tribunals Rules of Procedure 2013 (the “Rules”) the Employment Judge refuses Ms Brito Brito’s application for a reconsideration of the Judgment sent to the parties on 17 February 2022 (the “Judgment”). The Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked.

## **Reasons**

### **Introduction and applicable law**

1. The Employment Judge must consider this application by reference to rules 70, 71 and 72 of the Rules. So far as they are applicable they read as follows:

#### ***“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.*

#### ***71 Application***

*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.*

#### ***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 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. On 17 February 2022 the Judgment was sent to the parties. On 3 March 2022, within the fourteen day time limit, Ms Brito Brito's application for reconsideration was received by the Employment Tribunals.

### **Conclusions**

3. Ms Brito Brito's application is set out in an email to the Bristol Office of the employment tribunals timed at 0300 on 3 March 2022. It is a long document and the Employment judge has read it in full. However, in summary, the Employment Judge understands Ms Brito Brito to make the application referred to below.

4. Ms Brito Brito refers to paragraph 63 of the Judgment which includes this:

*"Ms Brito Brito has produced a letter from her doctor dated 21 January 2022 and addressed "To whom it may concern" (183). The doctor writes that Ms Brito Brito was diagnosed with reactive depression in April 2020. If that is right, the diagnosis predates the incidents with which we are concerned. Ms Brito Brito was in La Palma in April 2020, so we assume the doctor meant April 2021."*

Ms Brito Brito points out that the Tribunal is wrong and that the diagnosis was made in April 2020.

5. On that basis, Ms Brito Brito asks the Tribunal to revisit its conclusion that no award should be made for personal injury (see paragraph 133 of the Judgment).

6. The Employment Judge accepts that the diagnosis was made in April 2020. However, that weakens Ms Brito Brito's claim for an award for personal injury further. If the diagnosis was made in April 2020, it cannot have been the result of discriminatory acts found by the Tribunal to have been committed several months later. Whilst the Tribunal awarded Ms Brito Brito the wages she sought, it did not find any discriminatory act in relation to that claim (see paragraph 93 of the Judgment).

5. Accordingly the Employment Judge refuses the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

**Case No: 1405738/2020**

Employment Judge Matthews in Chambers  
Dated: 18 March 2022

Judgment sent to parties: 21 March 2022

FOR THE TRIBUNAL OFFICE