



# 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 Third Application for Reconsideration**

Acting in accordance with rule 72 of the Employment Tribunals Rules of Procedure 2013 (the “Rules”) the Employment Judge refuses the Respondent’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. The relevant parts of these were set out in the Judgments on the First and Second Applications for Reconsideration. They are not repeated here.
2. On 17 February 2022 the Judgment was sent to the parties. On 3 March 2022, within the fourteen day time limit, an application for reconsideration made by the Respondent, was received by the Employment Tribunals. That was dealt with in the Judgment on Second Application for Reconsideration. Since then, the Respondent has sent further correspondence to the Bristol Office of the employment tribunals. In essence, this material not only supports but also widens the scope of the application made by the Respondent on 3 March 2022. It is lodged out of time. However, in exercise of the power conferred by rule 5 of the Rules, the Employment Judge extends time to enable these supplementary papers to be considered.
3. The supplementary papers are as follows:

- E-mails from Mr Mock to the tribunals dated 11 March 2022 (timed at 0802), 28 March 2022 (timed at 0943) and 30 March 2022 (timed at 1052).
- A paper dated 30 March 2022 entitled "Respondent's application for a reconsideration of the Judgment dated 18 March 2022" (the "Respondent's Paper").

### **Conclusions**

4. The thrust of the Respondent's application remains as set out in a short email from Mr Mock to the Bristol Office of the employment tribunals timed at 1800 on 3 March 2022. It is a request to reconsider the amount of the award made to Ms Brito Brito in respect of injury to feelings for the discrimination found.

5. The Tribunal set out its reasons for making the award at the level it did in paragraphs 127-131 of the Judgment.

6. Across the supplementary papers various arguments are made and repeated. The Respondent's Paper encapsulates them and categorises them into three grounds for making the application for reconsideration.

- Ground 1 – In substance this is two grounds. First, is the issue of whether or not Ms Brito Brito now chooses to leave her employment with the Respondent. That was dealt with in the Judgment on Second Application for Reconsideration. Second, is the "many factors" argument. As the Judgment explains, the Tribunal took account of all the apparent factors that had contributed to Ms Brito Brito's anger, distress and upset. The Respondent's suggestion that, in effect, the Tribunal should have decided on the award that it would have made had all Ms Brito Brito's anger, distress and upset been attributable to the discrimination found, divided that amount by eight and awarded that eighth, is flawed. Eight "factors" does not translate into one eighth of any speculative award. The Tribunal's task was to award compensation for the anger, distress and upset attributable to the discrimination found. As explained in the Judgment, that is what it did.
- Ground 2 – It is correct that the Employment Judge had not seen the Respondent's e-mail of 11 March 2022 when the Judgment on Second Application for Reconsideration was sent to the parties. Whilst the Respondent's argument that the e-mail of 11 March (and, presumably the subsequent e-mails) was in time, is wrong, that issue has been overcome because the Employment Judge has extended time.
- Ground 3 - The Tribunal's misunderstanding of the date of the diagnosis of Ms Brito Brito's reactive depression has no bearing on the award. The Respondent's arguments seek to read something into the Judgment that is not there.

7. 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.

Employment Judge Matthews In Chambers  
Dated: 3 April 2022

Judgment sent to parties: 14 April 2022

FOR THE TRIBUNAL OFFICE