



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr R Verburg

**Respondent:** The Down's Syndrome Association

## APPLICATION FOR RECONSIDERATION

### JUDGMENT

1. The decision of the Tribunal, dismissing the claim, is confirmed.

### REASONS

1. At a Preliminary Hearing on 27 September 2021, the Tribunal dismissed the claim, holding that:
  - (a) The Tribunal did not have jurisdiction to hear the complaint of unfair dismissal, as the Claimant had been employed for less than 2 years.
  - (b) The Tribunal did not have jurisdiction to hear the complaints for wrongful dismissal and detriments arising from making protected disclosures, as they had been brought out of time.
  - (c) The complaint of age discrimination had been withdrawn.
2. On 25 October 2021, the Claimant (who is unrepresented) wrote to the Tribunal, copying in the Respondent's solicitor, setting out at length a number of concerns and attaching various documents. Although reasons had been given orally at the hearing, the written reasons (which had been promulgated on 21 October) had not been sent out at that stage.
3. Although the Claimant's email was not especially clear, it appeared that he was asking the Tribunal to reconsider its decision in the light of the matters he had set out. He referred to an "oversight" by the Tribunal, although it was not completely clear what that was. The Tribunal therefore ordered as follows:

*"Following the hearing on 27 September 2021, at which judgment was given dismissing the claim, the Claimant emailed the Tribunal on 25 October 2021. The Tribunal is treating that email as an application for reconsideration of the judgment (a copy of which the parties will now have received) and seeking to have it revoked, under Rule 71. The Respondent is asked to respond to the Claimant's email within 14 days of this Order being sent to the parties (and marked for the attention of EJ Cheetham QC), also stating whether it considers the application for reconsideration can be considered without a further hearing."*

4. It is fair to say that the Respondent took exception to that approach, arguing forcibly in its response that the Tribunal was wrong to treat that letter as an application for reconsideration and explaining to the Judge what he should have done. However, the Respondent then helpfully provided the response sought and dealt with the points raised by the Claimant.
5. Having considered again the Claimant's letter and the Respondent's substantive response to those points, it is clear that there is no basis at all for revisiting the Judgment. Nothing that the Claimant has said regarding his continuity of service can alter the fact that he was employed for less than 2 years. More significantly, the contentions put forward in the email regarding time limits and the submission of the claim – which appear to be the alleged "oversight" – are not sustainable, as explained by the Respondent.
6. While the Tribunal would not go so far as the Respondent in saying that the Claimant's email contained statements that were false and misleading, it is clear in its view that nothing in that email provides any basis at all for reconsideration of the Judgment. Whether or not the Tribunal was correct to treat that email from the Claimant as an application for reconsideration, it is nevertheless clear that the application must in any event fail.
7. The Tribunal apologises for the delay in dealing with this matter.

Employment Judge Cheetham QC  
Date 29 March 2022