



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss A Donaghey

**Respondent:** Done Bros Cash Betting Ltd t/a Betfred

## RECONSIDERATION JUDGMENT

The claimant's application dated 13 May 2022 for reconsideration of the judgment sent to the parties on 29 April 2022, is refused.

### REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70).
2. The Court of Appeal in **Ministry of Justice v Burton [2016] EWCA Civ 714** has emphasised the importance of finality, which militates against the discretion being exercised too readily.
3. In **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the Employment Appeal Tribunal said that a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or by adopting points previously omitted. It is not a means by which to have a second bite at the cherry, nor is it intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.

4. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

5. Preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. Achieving finality in litigation is part of a fair and just adjudication.

6. The issue upon which reconsideration is sought is one which was fully addressed in the Judgment (see paragraphs 122, 164-169, and 308-311). As the Judgment records and as the application appears to acknowledge, the claimant had the opportunity to give evidence about her reasons why a claim was not entered earlier and was given the opportunity to explain why she would contend that a just and equitable extension of time should be given if one was required.

7. The issues raised are not a material change in circumstances after the Judgment or new evidence which has subsequently come to light. The issue was recorded in the list of issues which it was agreed at the start of the hearing needed to be determined; and was an issue upon which the claimant was given the opportunity to explain her case. It is, of course, the case that the claimant represented herself during the hearing and it is accepted that she was nervous as any litigant in person may be, nonetheless the claimant was able to address the issue during the hearing.

8. The points raised by the claimant are attempts to re-open issues of fact and law on which the Tribunal heard evidence from both sides and made a determination. In that sense they represent a "second bite at the cherry" which undermines the principle of finality. Such attempts have a reasonable prospect of resulting in the decision being varied or revoked only if the Tribunal has missed something important, or if there is new evidence available which could not reasonably have been put forward at the hearing. A Tribunal will not reconsider a finding of fact just because the claimant wishes it had gone in her favour or because she wishes she had explained or emphasised some particular point in a different way during the hearing. The documents provided with the reconsideration application are documents which were available at the time of the hearing and could have been submitted and/or relied upon by the claimant during the hearing.

**Case No: 2405590/2020**

JUDGMENT SENT TO THE PARTIES ON  
7 June 2022

FOR THE TRIBUNAL OFFICE