



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs K O'Brien

**Respondent:** Mitchells and Butlers Retail Limited

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The claimant's application for reconsideration of the tribunal's judgment of 30 March 2022 is refused under rule 72(1) of the Employment Tribunals Rules of Procedure Regulations 2013 on the basis that it has no reasonable prospect of success.

### REASONS

1. By rule 70 of schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the employment tribunal may, either on its own initiative 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 original decision may be confirmed, varied or revoked and if revoked, it may be taken again.
2. The "interests of justice" ground relates to the interests of both sides. In ***Outsight VB Ltd v Brown* 2015 ICR D11, EAT**, Her Honour Judge Eady QC referred to exercising the discretion judicially, 'which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation'.
3. Reconsiderations are therefore best seen as limited exceptions to the general rule that employment tribunal decisions should not be reopened and relitigated. There is an underlying public policy principle in all proceedings of a judicial nature that there should be finality in litigation.
4. However, if an obvious error has been made which may lead to a judgment or part of it being corrected on appeal, it will generally be appropriate for it to be dealt with by way of reconsideration: ***Williams v Ferrosan Ltd* [2004] IRLR 607 at [17]** per Hooper J.
5. The procedure for reconsideration under rule 72 is for the Employment Judge who heard the case to consider the application and decide whether there are reasonable prospects of the original decision being varied or revoked. If the

judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused.

6. The claimant's application of 1 April 2022 is made on the following grounds:
  - 6.1. The tribunal made a mistake when it reached a decision about the team meeting in October being proper and in policy;
  - 6.2. The tribunal made a number of mistakes when it interpreted the wording in the "Tips for Tips" policy;
  - 6.3. The tribunal made a mistake by contradicting itself when interpreting the wording in the "Tips for Tips" policy;
  - 6.4. The tribunal made a mistake when it reached the decision that the claimant's case was initiated after the time limit of three months;
  - 6.5. The tribunal made a mistake by not referring to the relevant Employment Rights Act legislation and the relevant Employment Tribunals Act legislation;
  - 6.6. The tribunal made assertions about the claimant that were false and misleading.
7. Written reasons for the judgment were produced on 31 May 2022 and provide an explanation of why the tribunal came to its conclusions. Concluding paragraphs 50 to 59 deal with matters raised in grounds 6.1 to 6.3 above; concluding paragraphs 60 to 63 deal with the time limit point raised in ground 6.4; the relevant legislation and case law is set out in paragraphs 30 to 47 and covers ground 6.5.
8. With respect to ground 6.6 the claimant does not say what the assertion was that the tribunal made, which she believes to be false and misleading. The ground is too vague to substantively respond to.
9. There must be a reasonable basis for a reconsideration, and disagreement with the original decision is insufficient. I have not detected any error of law, misinterpretation of documents, or any failure to take into account a material consideration. I am satisfied that there is nothing within grounds 6.1 to 6.6 which cause me to believe that the judgment should be reconsidered.
10. Taking account of the overriding objective in rule 2, I therefore conclude that, in accordance with rule 72(1), the application should be refused.

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Employment Judge Liz Ord  
Date 31 May 2022

**Case No: 2409163/2021**

JUDGMENT SENT TO THE PARTIES ON  
14 June 2022

FOR THE TRIBUNAL OFFICE