



## EMPLOYMENT TRIBUNALS

**Claimant:** Mr J O'Neil  
**Respondent:** (1) FGI Consultancy Ltd (2) FGI Recruitment  
**Heard at:** London South Employment Tribunal (by CVP)  
**Before:** Employment Judge Dyal

## APPLICATION REFUSED

1. The application for reconsideration of 18 May 2022 is refused. It has no reasonable prospect of success.

## REASONS

1. By an email to the employment tribunal dated 18 May 2022, Mr Pomfret, Director of the Respondent FGI Consultancy Ltd (hereafter 'the Respondent') indicated that he wanted to appeal the tribunal's judgment.
2. If the Respondent wishes to appeal then the appeal must be directed to the Employment Appeal Tribunal. I have checked and I see from the file that this was explained in the attachment to the tribunal's email to Mr Pomfret of 25 March 2022. That attachment included a link to the Judgment Booklet which I repeat: <https://www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426>
3. However, the employment tribunal has a power to reconsider its own decisions and it seems to me that I should treat the email dated 18 May 2022 as an application for reconsideration pursuant to rules 70 – 73 of the Employment Tribunals Rules of Procedure 2013.

4. The application has been made outside of the specified time limit and I reject it for that reason and upon its merits since it has no reasonable prospect of success.
5. The hearing took place on 21 January 2022. At the hearing, I considered the Claimant's evidence, all other information available to me, the applicable law before giving an oral judgment with reasons.
6. The Respondent did not attend the hearing. It is true that the hearing was retimed from 2pm to 2.30pm. This was because there was no judge assigned to the case until I became free that afternoon and I needed half an hour to read into the case.
7. The hearing was conducted remotely by video link (using CVP) in accordance with the details provided in advance to the parties. The parties were notified shortly before 2pm that the hearing would be retimed to 2.30pm. There are some details around this that are important:
8. Although the hearing was retimed to 2.30pm, at 2.00pm the tribunal's clerk was online in the hearing room ready to explain to any party that attended that the hearing would commence at 2.30pm. The Respondent did not attend.
9. The tribunal's administration communicated the retiming of the hearing by email to all parties. It also attempted to telephone the parties to confirm the retiming. However, the Respondent did not answer the telephone.
10. Mr Pomfret says that 'technical problems' prevented him from joining the hearing. That may be so, and it is not uncommon, however, I have checked the file and it shows that nothing was done on the day of the hearing to communicate to the tribunal that there was any difficulty in joining. This could have taken the form of an email or a telephone call.
11. The written judgment was ready to be sent to the parties on 21 January 2022 but for reasons that are unclear there was an administrative delay in it being sent out until 25 March 2022. In the mean time the Respondent did not make any inquiries of the tribunal as to what had happened at the hearing or to indicate that there had been any difficulty in joining the hearing.
12. The judgment was sent to the Respondent by email on 25 March 2022. Email was identified on the Respondent's Form ET3 as the preferred method of communication. The email address identified in Form ET3 is the email address that the tribunal used. The tribunal therefore communicated with the Respondent in exactly the way requested.
13. The tribunal heard nothing at all from the Respondent until 18 May 2022. The Respondent therefore waited nearly 5 months from the date of the hearing on 21 January 2022 before doing anything.

14. It is far too late in the circumstances for the Respondent now to seek to disturb the tribunal's judgment.

15. Further, the application for reconsideration is misconceived on its merits. The tribunal gave oral reasons for the judgment it reached. These explained why it concluded that the Claimant was a worker of the Respondent's and why in the circumstances, based upon the Claimant's claim form and evidence, the wages claimed were properly payable.

16. No application was made within the applicable time limit for written reasons to be given and it is far too late for them to be provided now.

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Employment Judge Dyal

Date 24 May 2022