



# JUDGMENT

Claimant: Mr R Bermingham

Respondent: DHL Services Ltd

The claimant's application dated **12 July 2021** for reconsideration of the judgment sent to the parties on **29 June 2021** is refused.

## REASONS

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

1 The claimant made his application for reconsideration dated 12 July 2021 prior to receipt of written reasons. Written reasons having been provided to the parties, the claimant was asked if he wanted to add any information in support of his application. He provided additional information on 12 November 2021. His application and the additional information have been considered.

2 Using the same numbered paragraphs as the claimant in his application:

1 There was no unfavourable treatment of the claimant during the hearing. The issue of disability was not addressed at the hearing; the only issue which was decided was whether the claim had been made in time .

2 The claimant did not say his health condition was a reason for any delay.

3 The tribunal did consider the issue of delay by the respondent .

4 The tribunal did not dismiss the claimant's claim because he was ( or was not) a member of a trade union or because he did not have legal representation or because he had ( or did not have) internet skills. It did not conclude that it was any fault of his that Mr Saul ( the decision maker) had left the respondent's employment but the fact that he was no longer employed was a relevant matter for the tribunal to consider as far as prejudice was concerned. The claimant told the tribunal during the hearing about his communications with ACAS but did not refer us to any documents he had received.

3 The claimant provided additional information on 12 November 2021. This comprised the following documents : an extract from a 'To Whom It May Concern' letter (undated) from an employee of Narcolepsy UK ( a charity) describing the effects of narcolepsy and an email from an ACAS conciliator to the claimant dated 31 October 2019 , his reply of the same date , his email to her dated 5 November 2019 and her reply dated 6 November 2019. This information is not new evidence which has become available to the claimant since the hearing, the existence of which could not have been reasonably known of or foreseen by him at the time. Even if it was new evidence, the claimant has not explained what bearing it would have had on the outcome of the

hearing. If it was available to him all along he has not explained why he did not use it. He knew that the out of time issue was a preliminary issue to be determined at the hearing.

5There is a public policy principle that there should be finality in litigation. It is not in the interests of justice that a party be given the opportunity to repeat or make new or additional submissions which they could have but failed to make at the time. A judgment will only be reconsidered if it is in the interests of justice to so. It is not intended to be used by a disappointed party to provide a re-hearing (**Stevenson v Golden Wonder Limited 1977 IRLR 474 EAT**).

Employment Judge Woffenden  
7 December 2021