



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J F Edwards

**Respondents:**

1. Unite the Union
2. Ms J Formby
3. Ms G Cartmail
4. Mr L McCluskey

## JUDGMENT

1. The claimant's application dated 3 November 2022 for reconsideration of the judgment sent to the parties on 20 October 2022 is refused.
2. Any part of the application dated 3 November 2022 which is a new application to reconsider the judgment sent to the parties on 4 May 2020 is refused on the grounds that the application is made out of time and the judge refuses to extend time.

## REASONS

1. By a judgment sent to the parties on 20 October 2022, the claimant's application for reconsideration of the judgment sent to the parties on 4 May 2020 was refused on the grounds that there was no reasonable prospect of the original decision being varied or revoked on the basis of the "new" evidence, on which the claimant relied in making his application. The judge gave her reasons for that decision. The judge understands that this judgment is now the subject of an appeal to the Employment Appeal Tribunal.

2. The claimant has made an application dated 3 November 2022. The covering email to this application refers to the judgment sent to the parties on 20 October 2022 and describes the letter of 3 November 2022 as a request for reconsideration/review, suggesting it is an application for reconsideration of the 20 October 2022 judgment. It appears, however, from the letter of 3 November 2022 itself, that the application may be of a wider nature than an application to reconsider the 20 October 2022 judgment, and may include a new application, on other grounds, to reconsider the judgment sent to the parties on 4 May 2020. The judge has, therefore, considered the application dated 3 November 2022 on both these bases.

3. The application also requests a reconsideration of a refusal to strike out the response, made at a preliminary hearing on 18 November 2019, judgment in relation to which was sent to the parties on 6 December 2019. This relates to a case management decision made by a different judge earlier in proceedings. As explained in paragraph 13 of the reasons for the judgment sent to the parties on 20 October 2022, that is not a matter to be dealt with by Employment Judge Slater. This is a matter which has been the subject of separate correspondence from the Tribunal on the instructions of Regional Employment Judge Franey.

4. Following his emailed letter to the Tribunal dated 3 November 2022, the claimant sent, by post, a lever arch file of documents to accompany the application. Unfortunately, on receipt, the file was not linked with the application and its storage location was not properly logged. Following correspondence with the claimant, when he informed the Tribunal when the file had been delivered, the lever arch file was located and given to the judge before she made this judgment.

5. The claimant sent a further letter of 3 January 2023 in support of his application.

The application to reconsider the judgment sent to the parties on 20 October 2022

6. To the extent that the application dated 3 November 2022 is an application to reconsider the judgment sent to the parties on 20 October 2022 refusing the claimant's application dated 1 August 2022 for reconsideration sent to the parties on 4 May 2020, that application is refused for the following reasons.

7. The judge concluded, for the reasons set out in the judgment of 20 October 2022, that there was no reasonable prospect of the original decision being varied or revoked on the basis of the "new" evidence. Nothing the claimant has written in his application dated 3 November 2022 affects her reasoning on the basis of the material that was before her. There is, therefore, no reasonable prospect of the 20 October 2022 judgment being varied or revoked.

8. To the extent that the claimant seeks to put additional arguments, to those made in his application dated 3 November 2020, which could have been made in that application but were not, the judge does not consider this to provide a proper basis on which to reconsider her judgment of 20 October 2022. This would be giving the claimant a further bite of the cherry. It is not in the interests of justice that parties can re-open judgments because they have thought, subsequently, of something they wished they had argued, but did not.

9. I refuse the application on the grounds that there is no reasonable prospect of the judgment sent to the parties on 20 October 2022 being varied or revoked.

The new application to reconsider the judgment sent to the parties on 4 May 2020

10. To the extent that the application dated 3 November 2022 is an application to reconsider the judgment sent to the parties on 4 May 2020 on grounds other than the “new” evidence which came to the claimant’s attention on 23 July 2022 (which was the subject of the 20 October 2022 judgment), this application is made long after that 14 day time limit for making an application for reconsideration. The judge, in her judgment sent to the parties on 20 October 2022, extended time for the application for reconsideration on the basis of “new” evidence, since the claimant said this evidence only came to his attention on 23 July 2022. However, there is no reason put forward for making an application for reconsideration of the 4 May 2020 judgment on any other grounds out of time. The judge does not consider it would be in the interests of justice to extend time to reconsider the 4 May 2020 judgment on any other grounds. The judgment was promulgated about 2.5 years before the claimant’s application of 3 November 2022. The events that judgment related to were even further in the past. The parties and the Tribunal have already spent a great deal of time, costs and public funds in relation to this case. There must be finality in litigation. It would require exceptional circumstances for it to be in the interests of justice to allow the possibility of re-opening this litigation so long after the judgment. The claimant’s application of 3 November 2022 does not raise any exceptional circumstances which the judge considers could justify extending time for an application for reconsideration.

Employment Judge Slater  
Date: 19 January 2023

JUDGMENT SENT TO THE PARTIES ON  
19 January 2023

FOR THE TRIBUNAL OFFICE