



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr I Ralph  
**Respondent:** Buckinghamshire College Group

## SECOND RECONSIDERATION JUDGMENT

The claimant's application dated **21 December 2022** for reconsideration of the judgment, sent to the parties on **28 September 2022** and/or of the First Reconsideration Judgment sent to parties on **7 December 2022** is refused as it has no reasonable prospects of success.

The Claimant also states that he seeks the employment tribunal's permission to appeal to employment appeal tribunal. However, the employment tribunal's permission is not a requirement prior to an appeal to employment appeal tribunal.

## REASONS

1. Rules 70-72 of the Tribunal Rules provides as follows:

### **70. Principles**

A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) 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 decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again.

### **71. Application**

Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

### **72. Process**

(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.

(2) If the application has not been refused under paragraph (1), the original decision shall

be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations. (3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

2. I referred to the law on the interpretation of these rules in the First Reconsideration Judgment. I have taken that law into account, but do not need to repeat it here.

#### The Claimant's application

3. The Claimant submitted an application, by covering email and attached letter on 21 December 2022. That was within the relevant time limit seeking reconsideration of the First Reconsideration Judgment, but outside the time limit for seeking reconsideration of the main judgment, with reasons, sent to parties on 28 September 2022.
4. The application does not contain information or arguments that were unknown to the Claimant on 28 September 2022. It is not in the interests of justice to extend time.
5. The application to reconsider the First Reconsideration Judgment is dismissed as it has no reasonable prospects of success. The reasons are as follows.
6. He mentions that he had originally had union funding for legal representation. The funding ceased and he became a litigant in person. The Tribunal was aware that he was a litigant in person and that fact is not grounds to vary or revoke the decisions made previously.
7. He refers to the fact that EJ Hyams did not strike out the case as having no reasonable prospects of success. However, the Tribunal's decision that the claim failed was reached after consideration of the evidence. It was not a strike out decision.
8. He refers to (alleged) delays by the Respondent and its representatives in complying with the orders. Even on the assumption that these allegations are true, they are not grounds to vary or revoke the prior decisions. The Claimant had the opportunity during the hearing to question the Respondent's witnesses fully, as set out in the reasons.
9. The witness evidence was fully considered and we made our findings of fact. Our decision was that the Claimant was not dismissed by the Respondent. The evidence that the Claimant had been previously subjected to some level of criticism for his performance was relevant in the context that the Claimant was alleging bias and discrimination by new line managers.

10. The Claimant had the opportunity to question the witnesses about the preparation of their witness statements. The lateness of the disclosure of certain items, and the fact that this led to Ms Portland having to be recalled, reflects poorly on the Respondent. However, the panel took that into account as part of its overall assessment of the evidence.
11. The claim did not fail on the basis that an oral agreement, if any, is not legally binding. It failed, as far as the Claimant's arguments about the salary dispute are concerned, for the reasons mentioned throughout the main judgment and reasons. See paragraph 120, for example.
12. In the remainder of his letter, the Claimant describes again the gist of his claim against the Respondent, but there is no reasonable prospect that the panel would decide it had misunderstood his claim or his reasons for bringing it. The matters referred to in the letter are simply attempts to repeat arguments which the Claimant made at the hearing.

**Employment Judge Quill**

Date: 13 February 2023

JUDGMENT SENT TO THE PARTIES ON

16 February 2023

FOR THE TRIBUNAL OFFICE