



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

Mr A Aylmer

v

Premier Farnell UK Limited

**Tribunal:** Leeds

**Dated:** 14 March 2023

**Before:** Employment Judge A James

## RECONSIDERATION JUDGMENT

(1) The application for reconsideration of the Judgment dated 23 February 2023 (Employment Tribunals Rules of Procedure 2013 – Rules 70 to 73) is refused for the reasons set out below.

## REASONS

1. The reserved judgment dated 8 February 2023 was sent to the claimant on 9 February 2023.
2. An application was made by the claimant on 23 February 2023 for reconsideration of the judgment. That arrived during a period of non-working for the Judge. Today has been the first opportunity to consider the application in detail.

### **The Law**

3. Rules 70, 71 and 72 of the Employment Tribunal Rules of Procedure 2013 provide as follows:

#### ***RECONSIDERATION OF JUDGMENTS***

##### ***Principles***

*70. 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.*

**Application**

71. *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.*

**Process**

72. *(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.*
4. Whilst the discretion under the rules is wide under the ‘interests of justice’ test, it is not boundless; it must be exercised judicially and with regard, not just to the interests of the party seeking the review, but also to the interests of the other party and to the public interest requirement that there should, as far as possible, be finality of litigation - *Flint v Eastern Electricity Board [1975] ICR 395 at 401*, per Phillips J, at 404.
5. The Judge has carefully considered the contents of the application for reconsideration under Rule 72(1) and decided that there is no reasonable prospect of the decision being varied or revoked. A hearing is not therefore necessary. The reasons are as follows.

**The grounds for the application**

6. Having carefully considered the claimant’s application for reconsideration, it is not at all clear to the Judge what the basis of the application is. In particular, the claimant has not clearly set out why he considers that it would be in the interests of justice to reconsider the judgment.
7. In essence, the claimant appears to take issue with the findings of fact that the Tribunal has made. Those findings of fact were made after careful consideration of the live evidence at the hearing, the witness statements, and the documents in the bundle. Nothing that the claimant says in his application suggests to the Judge that those findings of fact were not reasonably open to the Tribunal, on the basis of the documentary and witness evidence presented.
8. The claimant also alleges at paragraph 5 on page 1 of the Reconsideration request that he was ‘*unprepared for submission*’. He says he had 40 minutes during the lunch break and then 30 minutes for oral submissions and ‘*he could not do it, it was impossible in the time allocated to him given his learning disability and anxiety*’. The notes of the hearing and the email to the Tribunal with the respondent’s submissions indicate that they were printed off at about

1:15 pm, and a copy given to the claimant. The lunch break was between 1.10 and 2 pm. The hearing reconvened at 2 pm, and at 2.25 pm, a further adjournment than took place until 3.10 p.m. Counsel for the respondent then made oral submissions, for 30 minutes. As paragraph 13 of the Tribunal's written reasons makes clear, the Tribunal had from the outset explained what the purpose of submissions was. It also records that the claimant was given the option of a further break before giving his own verbal submissions, but he indicated that he was happy to proceed without such a break.

9. Finally, the Judge notes that reasonable adjustments were considered by the Tribunal. The claimant confirmed at the outset that he did not require any adjustments as such; he simply asked the Tribunal to note that he might be slower to respond to questions and the average person - see paragraph 12 of the written reasons.

### **Conclusion**

10. For the above reasons, the reconsideration application is rejected under Rule 72(1) because there is no reasonable prospect of the decision being varied or revoked.

Employment Judge James  
North East Region

Dated 14 March 2023

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