



EMPLOYMENT TRIBUNALS

Claimant: Muhammed Shazad Nazieb

Respondent: Moores Furniture Group Ltd

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The application for reconsideration is refused as there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. A reserved judgment and reasons was sent to the parties on 3 April 2023. That judgment followed a hearing on 13, 14, 15, 16 and 22 March 2023.
2. After careful consideration, the unanimous judgment of the Tribunal was that the claims brought by the claimant were not well founded and they were dismissed.
3. The claimant wrote to the Tribunal on 4 April 2023 applying for the judgment to be reconsidered.
4. I have considered the contents of the claimant's application carefully.
5. The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1, provides as follows:
 - “70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) 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. 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 (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."

6. The previous Employment Tribunal Rules (2004) provided a number of grounds on which a Judgment could be reviewed. The only ground in the 2013 Rules is that a Judgment can be reconsidered where it is necessary in the interests of justice to do so. I consider that the guidance given by the Employment Appeal Tribunal in respect of the previous Rules is still relevant guidance in respect of the 2013 Rules. It was confirmed by Eady J in **Outsight VB Ltd v Brown UKEAT/0253/14/LA** that the basic principles still apply.

7. There is a public policy principle that there must be finality in litigation and reviews are a limited exception to that principle. In the case of **Stevenson v Golden Wonder Limited [1977] IRLR 474** makes it clear that a review (now a reconsideration) is not a method by which a disappointed litigant gets a "second bite of the cherry". Lord McDonald said that the review (now reconsideration) provisions were

"Not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before".

8. In the case of **Fforde v Black EAT68/80** where it was said that this ground does not mean:

"That in every case where a litigant is unsuccessful is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in even more

exceptional cases where something has gone radically wrong with the procedure involving the denial of natural justice or something of that order”.

8. In the interest of justice means the interest of justice to both sides. The Employment Appeal Tribunal provided guidance in **Reading v EMI Leisure Limited EAT262/81** where it was stated:

“When you boil down what is said on (the claimant’s) behalf it really comes down to this: that she did not do herself justice at the hearing, so justice requires that there should be a second hearing so that she may. Now, ‘justice’ means justice to both parties”.

9. The Tribunal heard a substantial amount of evidence and gave very careful consideration to these claims. The issues the claimant now raises are mostly matters of evidence and points which had been considered by the Tribunal when reaching its decision.

10 The claimant raises issues with regard to his honesty and that he is a genuine person. There was no finding with regard to the claimant’s honesty or whether he was genuine. The finding of the Tribunal was that he had not established facts from which the Tribunal could conclude that the respondent had committed an act of discrimination. If the burden of proof had switched to the respondent, then the Tribunal was satisfied that the respondent had established non-discriminatory reasons for the treatment of the claimant.

11. The claimant refers to attempts being made to prevent him from attending Friday prayer. It is made clear in the judgment that Tribunal was satisfied that the claimant’s requests in respect of religious observances and his holiday requests were accommodated.

12. The claimant refers to the opinion of others with regard to the merits of his claim. Clearly, such opinions were given on the basis of the claimant’s version of events. The Tribunal had the benefit of hearing a substantial amount of evidence when reaching its decision.

13. The respondent was represented and the claimant represented himself. As the claimant acknowledges in his application for reconsideration, the Tribunal assisted the claimant to formulate his questions and the Tribunal considered all the evidence before it in reaching its conclusion.

14. The Tribunal fully appreciated the claimant’s sense of injustice but it has to follow the statutory requirements and guidance provided by the appeal courts. I am of the view that this is clearly explained in the judgment.

15. There is nothing raised by the claimant that would provide a reasonable prospect of the judgment being varied or revoked and the application for a reconsideration is refused.

Case Number: 1802637/2022

Employment Judge Shepherd

17 April 2023.