



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Brennan

**Respondent:** Department for Work and Pensions

## RECONSIDERATION JUDGMENT

1. The claimant's late application dated 23 March 2023 for reconsideration of the judgment sent to the parties on 6 March 2023 is refused.

## REASONS

### 1. Important Dates and Relevant Facts

- 1.1. The judgment was given orally at the hearing, with reasons, on 28 February 2023.
- 1.2. The judgment was sent to the parties on 6 March 2023. The judgment was sent by email.
- 1.3. The claimant emailed the Employment Tribunal on 23 March 2023 applying for a reconsideration of the judgment. The claimant stated in that email *'I've just received this from DWP. Can I have a recon and written reasons pls'*, implying he had just received the judgment from the DWP.
- 1.4. The claimant's email included, as is common with emails, the previous emails in the email chain. This includes a copy the email from the Employment Tribunal dated 6 March 2023 that sent the judgment to the parties. That email was sent by the Tribunal to the claimant's personal email address, as he put on his claim form. The email chain shows that the Tribunal's email, with the judgment attached, was then forwarded on 7 March 2023 from the claimant's personal email address to what appears to be his work email address. The claimant's email of 23 March 2023 applying for reconsideration was sent from the email address that the claimant appears to have forwarded the judgment to on 7 March 2023.

1.5. It appears, therefore, that the judgment was correctly sent to a working email address of the claimant, the claimant's personal email address as stated on his ET1 form, on 6 March 2023. The judgment was then, on 7 March 2023, forwarded from the claimant's personal address to another email address that appears to be his work address. Accordingly, the claimant was aware of the judgment by 7 March 2023 at the latest, regardless of what his statement on 23 March 2023 that he had '*just received this from DWP*' was intended to mean.

## 2. Reconsideration application

2.1. Reconsideration applications are governed by rule 71 of the Employment Tribunal rules of procedure. This states:

### *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.*

3. Accordingly, a 14-day time limit applies to reconsideration applications. The claimant's application did not comply with that time limit.
4. What the claimant sent on 23 March 2023 did not contain any grounds for the application for reconsideration. Accordingly, it did not, as required by rule 71, "*set out why reconsideration of the original decision is necessary*", so did not at that point amount to a valid application for reconsideration. The claimant was informed what was required by return email from the Tribunal, around 30 minutes after his 23 March 2023 email was sent. The claimant responded to this substantively on 30 March 2023, setting out briefly why he believed that reconsideration of the original decision was necessary.
5. The most generous interpretation of events is that the claimant made an application for reconsideration on 23 March 2023, albeit at that time it was not a properly constituted application. That date would still be more than 14 days after the judgement was sent to the claimant and more than 14 days after the claimant forwarded that judgment from his personal to his work email address. The claimant has given no indication why he did not comply with the time limit.
6. Nothing within the claimant's grounds for his application for reconsideration appears to be either new information, or to the extent it might be new something that could not have raised at the hearing. Reconsideration is not a right or opportunity to remake the arguments that have been made, or could have been made, at the original hearing.
7. Accordingly, it does not appear that there is a reasonable prospect of the judgment being varied or revoked.

8. Rule 72(1) states, in relation to reconsideration applications:

*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....*

9. This states, that even if the reconsideration application had been in time, it ‘*shall be refused*’ where there is no reasonable prospect of the original decision being varied or revoked.

10. For the above reasons the claimant’s application for reconsideration is refused. It was made out of time and, in addition, there is no reasonable prospect of the original decision being varied or revoked.

---

Employment Judge Buzzard

27 April 2023

JUDGMENT SENT TO THE PARTIES ON

28 April 2023

FOR THE TRIBUNAL OFFICE

**Public access to employment tribunal decisions**

Judgments and, where they have been requested, written reasons for judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.