



# THE EMPLOYMENT TRIBUNALS

**Claimant:** Mrs E McDonald

**Respondent:** Keltbray Management Services Limited

## JUDGMENT FOLLOWING RECONSIDERATION

The Claimant's application dated 8 May 2023 for reconsideration of the Judgment sent to the parties on 24 April 2023 is refused as it is not necessary in the interest of justice.

## REASONS

1 The Claimant made a timely application for reconsideration under Rule 71 by her letter dated 8 May 2023. In it she identifies what are said to be mistakes in the Judgment relating to three specific elements: (1) the flexible working request; (2) the meeting on 8 November 2021; and (3) the office conditions, in particular space requirements from a Health and Safety at Work Act perspective.

2 As set out in the Reasons at paragraph 22, the Tribunal found as a fact that the request for a 3:2 working pattern was first made in the Claimant's meeting with Ms Price on 21 October 2021 and not to Mr Dawson on 19 October 2021. Ms Price agreed to make a referral to Occupational Health and the reduction to four days a week was not progressed pending the OH report. The Respondent did not ignore the Claimant's request to work flexibly (see paragraphs 56 and 58 of the Reasons). The points made by the Claimant in the application to reconsider do not affect those findings or the ultimate conclusion reached.

3 Whether or not the meeting was at the Claimant's request is not material to the conclusions reached. The Claimant seeks to re-argue points already made and rejected for the reasons given. As set out at paragraph 37 of the Reasons, this meeting post-dated the resignation and it was the Claimant's husband who made clear early in the meeting that there was no longer any question of the Claimant retracting her resignation.

4 The rights provided by the Health and Safety at Work Act for a safe place of work are not directly enforceable by an employee in the Employment Tribunal. The claim was advanced by reliance on the "whistle-blowing" provisions in the Employment

Rights Act 1996. Section 43B of the ERA requires the Claimant to have a reasonable belief that any information disclosed both tends to show a breach of health and safety and that it is in the public interest. For the reasons given at paragraphs 65 to 66, the Tribunal concluded that the Claimant did not disclose information which she reasonably believed tended to show a breach of health and safety requirements, nor did she reasonably that she was doing so in the public interest.

5 Having carefully considered the grounds set out in the reconsideration application sent on 8 May 2023, I am satisfied that it is simply a repetition of arguments which the Claimant made at the hearing in an attempt to relitigate points which were considered and rejected for the reasons given in the original Judgment. Disagreement with the findings and decision of a Tribunal is not a valid ground for reconsideration. I conclude that none of the matters raised by the Claimant are such that they would give any reasonable prospect of original decision being varied or revoked and it is not necessary in the interest of justice to reconsider the Judgment. Accordingly, the application for a reconsideration is refused under rules 70 and 72.

**Employment Judge Russell  
Dated: 31 May 2023**