



# EMPLOYMENT TRIBUNALS

**Claimant:**

Mr J Gill

v

**Respondent:**

Micrologic Property  
Holdings Limited

**Heard at:**

Reading by video

**On:** 28 March 2023

**Before:**

Employment Judge Hawksworth

**Appearances**

**For the Claimant:** In person

**For the Respondent:** Mr A Gill (director)

## JUDGMENT ON RECONSIDERATION

The respondent's application for reconsideration of the judgment on costs sent to the parties on 15 April 2023 is refused under rule 72(1) of the Employment Tribunal Rules of Procedure 2013.

## REASONS

### Introduction

1. I heard the respondent's application for costs at a hearing on 28 March 2023. I gave judgment and reasons at the hearing. I made an order that the claimant pay the respondent £1,200 in respect of costs. Judgment was sent to the parties on 15 April 2023. There has been no request for written reasons for that judgment.
2. The respondent made an application on 22 May 2023 for reconsideration of the costs judgment. I have considered the application under rule 72(1).

### The rules on reconsideration

3. Rule 70 of the Employment Tribunal Rules of Procedure 2016 says:

*“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.”*

4. The requirement that a judgment may only be reconsidered where reconsideration is necessary in the interests of justice reflects the public interest in the finality of litigation. There must be some basis for reconsideration; the process is not an opportunity for a party to provide further evidence or to seek to reopen matters which the tribunal has determined.
5. Rule 71 says that an application for reconsideration must be made in writing within 14 days of the date on which the original decision was sent to the parties. Rule 72 explains the process to be followed on an application for reconsideration under rule 71. It says:

*“(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.”*

### **Conclusions on the respondent’s application**

6. The respondent’s application for reconsideration was made within the required 14 days of the date on which the judgment was sent to the parties; the respondent complied with the procedure required by rule 71. I apologise for the delay in promulgating my decision on the respondent’s application, this occurred because I was not made aware of the application until 22 June 2023.
7. Rule 72(1) requires me to consider whether there is any reasonable prospect of the original decision being varied or revoked. I need to decide whether there is any reasonable prospect of a conclusion that variation or revocation of the original decision is necessary in the interests of justice. I have considered the application with this test in mind.
8. The respondent requests reconsideration on the basis that I made an award in respect of counsel’s fee only, and not in respect of the respondent’s solicitor’s fees. The respondent says there has been a mistake in calculation, and seeks to rely on more detailed evidence about the solicitor’s fees which it incurred, in the form of an invoice which was not before me at the hearing.
9. In its costs application, the respondent was seeking an award in relation to solicitor’s costs in addition to counsel’s fee of £1,200 following the late withdrawal of the claim by the claimant shortly before a hearing due to take place on 3 October 2022. I was not provided with a breakdown of the dates of the work to which the respondent’s solicitor’s fees corresponded. In the reasons I gave at the hearing, I said that Mr A Gill, on behalf of the respondent, told me at the hearing that, other than counsel’s fee, the costs to prepare for the hearing on 3 October 2022 were fairly limited as preparations had mostly been completed for an earlier hearing in March 2022.
10. In my reasons, I explained that I had concluded that only two of the three grounds on which the respondent was seeking costs were made out, and that I had decided to exercise my discretion to award costs in only one of those two. I said that the appropriate award was £1,200 in respect of counsel’s fee incurred as a result of the unreasonable conduct which was the ground on which I had decided to exercise my discretion.
11. I did not consider it to be appropriate to make an award in respect of the solicitor’s fees incurred by the respondent, because it was unclear what periods the fees related to, some of those costs would have been incurred

in any event, and some were not the result of the unreasonable conduct which I had found to have occurred. I decided to award £1,200 because of the decision I had reached and in exercise of my discretion, not because of a mistake in calculation.

12. It is not in the interests of justice to reconsider this decision in the light of further information about the respondent's solicitor's fees provided after the decision was already made. The time to produce evidence is before the hearing. There is a public interest in the finality of litigation, that is the requirement that disputes should be brought to a proper close rather than running on or being reopened. In order to justify reconsideration on the ground of new evidence, it is necessary to show that the evidence could not with reasonable diligence have been obtained for use at the original hearing, that the evidence is relevant and would probably have had an important influence on the hearing, and that the evidence is apparently credible. The respondent has not explained how these tests are met.
13. There is no reasonable prospect of variation or revocation of the original decision. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
14. The respondent's application for reconsideration is therefore refused under rule 72(1).

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**Employment Judge Hawksworth**

Date: 28 June 2023

Reasons sent to the parties on

3 July 2023

GDJ  
For the Tribunal office