



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. Anthony Macedo

**Respondent:** Corps Security (UK) Limited

## JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application dated 5<sup>th</sup> May and 2<sup>nd</sup> June 2023 for reconsideration of the judgment sent to the parties on 17<sup>th</sup> April 2023 is refused because there is no reasonable prospect of the original decision being varied or revoked.

## REASONS

### Background to the application

1. In a judgment sent to the parties on 17<sup>th</sup> April 2023, the Employment Tribunal dismissed the Claimant's claim of unfair dismissal. This followed an oral judgment delivered on 14<sup>th</sup> April 2023.
2. The Claimant wrote to the Tribunal on 28<sup>th</sup> April 2023, requesting that I "justify" my decision and referring to a reconsideration. I treated this correspondence as a request for written reasons, and informed the Claimant that he would have the opportunity to make an application for reconsideration if he wanted to on receipt of the written reasons.
3. The Claimant reiterated that he wanted his email of 28<sup>th</sup> April 2023 treated as an application for reconsideration on 5<sup>th</sup> May 2023. At this stage, written reasons had not yet been completed, and they were sent for promulgation on 11<sup>th</sup> May 2023. The judgment with reasons was sent to the parties on 5<sup>th</sup> June 2023.
4. On 2<sup>nd</sup> June 2023, the Claimant submitted a further application for reconsideration, expanding on one issue that he had raised previously, and requesting a transcript of the hearing using EX107. The application was referred to me, and I refused the application for a transcript (because the hearing had not been recorded by HMCTS) and indicated that the existing applications for reconsideration had not been made with sight of the full judgment and so the Claimant should make a single application, with

reference to the full judgment, for reconsideration by 19<sup>th</sup> June 2023.

5. No further application has been forthcoming, and so I have considered the Claimant's existing applications, which logically must be applications to reconsider the judgment of 17<sup>th</sup> April 2023. I do not set out the contents of the Claimant's applications here.

### **The Disclosure Issue**

6. The Claimant applies for me to reconsider my decision about the third party disclosure application he made at the hearing on 14<sup>th</sup> April 2023 on the basis that he had previously made applications to the Tribunal, including on 9<sup>th</sup> and 21<sup>st</sup> December 2022. In my judgment I stated that the application would have been refused in any event because the application was made very late in the day and it would not have been in accordance with the over-riding objective to adjourn the case for further disclosure.
7. Since the hearing was heard via CVP, I did not have access to the full Tribunal file. It appears (and is regrettable) that neither of the Claimant's previous applications had been uploaded to the Electronic File that I had access to. It is also regrettable that (despite being asked if there was any evidence of earlier applications), neither party drew my attention to pg. 122 in the bundle. The parties were aware that I had only had access to the electronic bundle for approximately 30 minutes prior to the hearing started, and could have referred me to it.
8. However, the fact that the Claimant did make applications previously does not mean that there are reasonable prospects of the decision being varied or revoked. This part of the judgment was predicated on being in the alternative. The substantive reason for rejecting the application is that the document sought (a police report concerning an incident from January 2021 which had not been seen by either party, and did not concern the Claimant, but another employee of the Respondent) was not relevant to the issues I had to determine. Therefore, whilst it is regrettable that the Claimant's applications were not acknowledged or dealt with at the time, the fact that applications had been made previously does not alter the substantive decision.

### **The 5<sup>th</sup> May 2023 reconsideration application**

9. In relation to its review, the Tribunal does not find any material which caused it to reconsider its decision. In particular:
  - a. Para (2). There was no finding that the Claimant "*made a fist*" on the CCTV. The description of "*feinted a punch*" came from the Claimant's own contemporaneous account to the Respondent within 12 hours of the incident.
  - b. Para (3) simply describes submissions by the Respondent's Counsel and does make any reference to the Tribunal's judgment.
  - c. Para (4) and (5) are comments about the evidence and do not refer to particular findings. There were contemporaneous documents about this incident in the bundle, to which the parties referred the Tribunal to, and the witnesses' comment upon. The Claimant's

submission about the discrepancy of treatment between PW and himself was addressed in the judgment and the Tribunal made findings about this.

10. The Tribunal is therefore unable to identify any material which would permit it to accede to the Claimant's request to reconsider its vary or revoke its judgment within the scope of its powers under Rule 70 of the Employment Tribunal Rules of Procedure 2013.
11. Therefore the Claimant's application for reconsideration is refused because there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

**J. Bromige**

Employment Judge **Bromige**

Date: **30<sup>th</sup> June 2023**