



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Harrington

**Respondent:** ABM Aviation UK Limited

## JUDGMENT

The claimant's application dated **28 April 2023** for reconsideration of the judgment sent to the parties on **17 March 2023** is refused.

## REASONS

1. The procedural rules governing an application for reconsideration are set out in rules 70 – 73 of the Employment Tribunal Rules. The parts of the rules that are particularly relevant at this stage of the application are as follows (my underlining):

70. 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.

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. The Claimant made an application by email on 28 April 2023. I consider that the application was made correctly in accordance with Rule 71 of the Employment Tribunal Rules.

3. The Claimant's application begins as follows:

'This appeal is the second to be submitted in the protracted six year employment tribunal between myself Sean Harrington and Omniserv Ltd ABM Aviation. This is a case involving elements of whistle blowing and discrimination of which I remain compelled to have put before the law courts in a continued effort to seek justice.

The appeal also comes after a technically hampered final hearing and a costs hearing both held online against and in apparent ignorance of my prior concerns and written request, both therefore I believe to have been conducted unfairly and in favour of the respondent.'

4. The Claimant does not elaborate on his second paragraph, but goes on to set out what he describes as an appeal against the Tribunal's decision made at the full merits hearing in the case. He says:

'All of these events I have previously, meticulously highlighted throughout this case and a summary of the discrimination and harassment suffered is once more included as follows, underlined and emboldened for the purpose of this further attempt at appeal: '

5. I have considered the Claimant's application carefully but it is clear that it is not an application for reconsideration of the costs judgment sent to the parties on 17 March 2023, but a request for the underlying merits of the claim to be considered again.

6. In my judgment there is no reasonable prospect of the original decision being varied or revoked. The Claimant has simply set out the facts of the case again (as he saw them) and has not established any grounds on which it would be in the interests of justice to vary or revoke the Tribunal's judgment. A party's belief that justice has not been done is not a proper ground for reconsideration of a fully reasoned judgment. The party applying for reconsideration must show that something has gone wrong with the process by which that decision was reached such as a procedural mishap or the unavailability at the time of the full merits hearing of a document that would have affected the outcome.

7. It is not unusual for a party who has been unsuccessful to seek to reframe parts of the evidence given at the hearing in light of the conclusions that the Tribunal has reached. The role of the reconsideration process is not to allow an unsuccessful party to put their arguments a different way – the principle that there must be finality in litigation prevents this and the parties are expected to put their whole case forward at the full merits hearing.

8. The application is also substantially out of time and no reason is given for the lateness of the application.

9. There is nothing in the application that refers to any substantive aspect of the decision on costs or any defect in the process by which that decision was reached that would warrant reconsideration of the decision. In my judgment the Claimant has not established any grounds on which it would be in the interests of justice to vary or revoke either of the Tribunal's liability or costs judgments and the application for reconsideration is therefore refused.

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Employment Judge **Morton**  
Date 12 August 2023