



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr H Parmar  
**Respondent:** DPD Group UK

## JUDGMENT

In exercise of powers contained in Rule 72 of the Employment Tribunals Rules of Procedure 2013 (“ET Rules”), the claimant’s application of 3<sup>rd</sup> July 2021 for reconsideration of the oral judgment given to the parties on 23<sup>rd</sup> June 2021 is refused because there is no reasonable prospect of the original decision being varied or revoked.

## REASONS

1. The claimant's complaint of Unfair Dismissal was dismissed on the 23/6/21 in accordance with **Regulation 38(1) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations (2013)**. This was on the grounds the claimant had failed to comply with the Unless Order dated the 4/11/20.
2. This decision was communicated by oral judgment on the 23/6/21. The claimant did not make a subsequent request for written reasons to be provided in accordance with **Rule 62(3) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations (2013)**.
3. Rule 71 of the ET Rules requires that an application for reconsideration is made within 14 days of the written record being sent to the parties. The claimant made an application for relief from sanctions Rule 38(2) and reconsideration on 3<sup>rd</sup> July 2021. The application for reconsideration is therefore made in time.
4. Rule 72 (1) of the ET Rules provides:
5. *“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. ...”*

6. The claimant in their application dated 3/7/21 states the basis of the application for reconsideration as:

(a) The claimant's solicitors did not receive the order from the 4/11/20 hearing until the 27/11/20;

(b) The claimants' solicitors did not receive any notes of the hearing from the 4/11/20, when counsel attended on their behalf;

(c) The claimant's solicitors did provide witness statements by the 27/11/20, 2 days late;

(d) The breach of the Unless Order was a trivial breach, causing no prejudice to the respondent.

7. Mr Mohzam, solicitor attended the hearing on the 23/6/21 on behalf of the claimant and made representations. Mrs Batten, solicitor attended the hearing and made representations on behalf of the respondent.

8. I have considered Osman's Solicitors request for relief from sanctions and reconsideration dated 3/7/21, and Freeth's Solicitors representations opposing the relief from sanctions and reconsideration application dated 9/7/21. This case relates to a dismissal in 2019. The Unless Order was imposed on the 4/11/20, after a number of orders had been made by the tribunal for documents and witness statements to be provided had not been complied with by the claimant. The claimant's solicitor was under the mistaken belief that the Unless Order provided for the mutual exchange of statements. It was conceded by the claimants' solicitors that counsel who attended on their behalf on the 4/11/20 had not provided notes of the hearing, and efforts were not made to chase up the notes, or a copy of the order. The claimant's solicitors were under a duty to clarify the terms of the Unless Order, and establish what their obligations were. The respondents' solicitors had been attempting to obtain a schedule of loss and other documents and statements since March 2020. The Unless Order of the 4/11/20 entitled them to see the claimant's statement first and then respond. The delay in submitting the claimants' statement made it difficult for them to do this. I accept the statement was provided 2 days later by the claimant's solicitors. I have considered the case of **Lindsay and Ironsides Ray and Vials 1994 ICR 384 EAT**. The EAT ruled that ordinarily, it was not in the interests of justice to reconsider a judgment because of an error made by a party's representative. Failings professional or otherwise would not usually constitute a ground for review.

9. In this case the claimant's unfair dismissal claim was submitted on the 30/12/19, and the ET1 did not contain details of why the claimant alleged the dismissal was unfair. The claimant's solicitors were Twinwood Law Practice between March and August 2020, the claimant acting in person between December 2019 and February 2020, and September to October 2020. Osman Solicitors acted from November 2020.

10. In my view there has been a substantial delay in this case. The case had been before the tribunal for 18 months when the hearing took place in June 2021. The delay in this case has in my view caused prejudice to the respondent, who was without evidence from the claimant and his representative for most of 2020. The matters referred to by the claimant on his ET1 form took place between June and November 2019, over 2 years ago. Taking into account the overriding objective, in particular avoiding delay and ensuring the parties are on an equal footing, and the requirement to deal with cases fairly and justly, I find it is not in the interests of justice to allow the application, and refuse the application for reconsideration.

**Employment Judge Beck**

**Date 27/01/22**