



# EMPLOYMENT TRIBUNALS

Claimant: Mr D Hussain

Respondent: Claim Time Limited t/a Claim Time Solicitors

## DECISION ON RECONSIDERATION APPLICATION

The claimant's application for reconsideration of the judgment on costs sent to the parties on 5 July 2023 is refused.

### REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. Rule 71 of the Employment Tribunals Rules of Procedure 2013 ("ET Rules") requires that an application for reconsideration is made within 14 days of the written record being sent to the parties (or within 14 days of the date that the written reasons were sent (if later). The judgment on costs was sent to the parties on 5 July 2023 and written reasons were sent on 11 September 2023. The claimant submitted a request for reconsideration on 13 September 2023, so it has been made in time.
2. The grounds for reconsideration are set out in rule 72 (1) of the ET Rules: *"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. ..."*
3. The application for reconsideration appears to be made on the basis that the claimant alleges:
  - a) The Tribunal made errors in its findings of fact in the original decision on liability which were referred to and relied upon in its decision on

costs.

- b) The costs claimed by the respondent and the sums awarded were disproportionate and unreasonable.
  - c) The Tribunal erred in its findings on the claimant's ability to find work.
  - d) The claimant is unable to pay the full amount awarded as he has no savings.
4. The costs hearing (held on 30 June 2023) was the claimant's opportunity to give information, ask questions and raise issues, which he did. He had the opportunity to submit his evidence, advance all relevant arguments and make any relevant applications. In relation to fact finding at the initial liability hearing and at the hearing for the costs application, all the evidence was considered carefully, the legal tests applied, and the decision and reasons provided to the parties. The allegations were fully explored. The Tribunal gave the issues full consideration and prepared its decision and reasons in detail. The claimant is, perhaps not surprisingly, unhappy with the outcome of the Tribunal as the decision was not in his favour.
5. A request for reconsideration is not an opportunity for a party to seek to re-litigate matters; it does not entitle a party who is unhappy with or disagrees with the decision to re-open issues that were determined. A reconsideration is potentially a route for a party to raise new matters, but only where these are of direct relevance and have subsequently come to light after the hearing and where that party can explain why the matter was not raised before. If conclusions are disputed on a point of law, i.e. it a party can identify flaws in the legal reasoning of the original decision, they are matters for an appeal, not a reconsideration
6. I have read through the application for reconsideration in detail. Dealing with each of the points identified at paragraph 3 above:
- a) The claimant makes points about the findings of fact, and why he says that they were incorrect. However strongly the points are made, there is nothing in the application for reconsideration which indicates that it is in the interests of justice to re-open these matters. The substance of the claimant's application is to challenge findings of fact that were made (which he disagrees with) or the conclusions that the Tribunal reached from those findings. The application is an attempt to re-litigate what was explored in detail at the hearing.
  - b) The claimant had the opportunity to ask questions and make submissions on the level of costs incurred by the respondent at the hearing itself which he did and this is referenced at paragraph 30 of the Tribunal's written reasons. The Tribunal carefully considered the sums sought and their proportionality to the importance of the issues to be determined and found no evidence of costs claimed being unreasonable or disproportionate.

- c) The Tribunal considered the earning potential of the claimant on the basis of his employment history since leaving the employment of the respondent as part of its deliberation. The claimant had the opportunity to give full evidence about this and make submissions during the hearing.
  - d) The claimant's ability to pay the amount awarded was also carefully considered by the Tribunal on the basis of the evidence presented and the submissions made. This is addressed at paragraph 32 of the written reasons.
7. It a fundamental requirement of litigation that there is certainty and finality. There is no clear reason given as to why it would be in the interests of justice to reconsider. I have therefore exercised my discretion to refuse the application for reconsideration as there is no reasonable prospect of the judgment on costs being varied or revoked. The claimant's application for a reconsideration is therefore refused.

Employment Judge Flood

3 October 2023