



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A Algedawy

**Respondents:** ABM Aviation UK Limited

## JUDGMENT

The application of the claimant, dated 4 October 2023, for reconsideration of the costs order made and recorded in the Judgment of 1 September 2023 and sent to the parties on 20 September 2023, is refused.

## REASONS

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

1. The Judgment was issued after a hearing which the claimant attended and at which he was given the opportunity to explain why it was he said that a costs award should not be made. I was aware that the claimant was not professionally represented at the time at which I made my decision. I took that into account. I also took into account the claimant's ability to pay any award made (including the information about the ability to pay set out in the reconsideration application). I have explained that I took the latter into account in my Judgment.
2. The only information referred to in the application for reconsideration which was not available at the hearing, is the references made to the claimant's family matters and a trip back home taken to address those matters. It does not appear that what is included is information about something which has occurred since the hearing. It appears to be something which the claimant could have raised at the hearing had he chosen to do so. The claimant did not explain his non-compliance with orders or his unreasonable conduct of the proceedings with reference to such matters. Had the claimant raised that as an issue at the hearing it could have been explored with him and an understanding sought of whether that had any impact upon whether a costs order should be made or the amount of any order. A reconsideration application is not (usually) an opportunity for a party to have a second opportunity to raise arguments which they could have raised at the hearing, but elected not to raise.

3. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70). The Court of Appeal in **Ministry of Justice v Burton [2016] EWCA Civ 714** has emphasised the importance of finality, which militates against the discretion being exercised too readily. In exercising the discretion, I must have regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

4. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

5. Preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. This includes, so far as practicable, saving expense. Achieving finality in litigation is part of a fair and just adjudication.

6. I do not find that it is necessary in the interests of justice to reconsider the Judgment, based upon the application made by the claimant. There is no reasonable prospect of the original decision being varied or revoked, based upon the reasons given. The application for reconsideration is refused.

Employment Judge Phil Allen  
5 October 2023

JUDGMENT SENT TO THE PARTIES ON  
13 October 2023

FOR THE TRIBUNAL OFFICE