



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. M Ali

**Respondents:** (1) Cordant Cleaning Limited  
(2) Bidvest Noonan (UK) Limited

## JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application dated **4<sup>th</sup> July 2023** for reconsideration of the judgment sent to the parties on **20<sup>th</sup> June 2023** is refused because there is no reasonable prospect of the original decision being varied or revoked.

## REASONS

1. At a preliminary hearing heard on 6<sup>th</sup> and 15<sup>th</sup> June 2023, the Tribunal found that the Claimant had not been dismissed within the meaning of Part X ERA 1996, and that further, the Claimant's claims had been presented 65 days out of time and it would have been reasonably practicable for the Claimant to issue his claims in time (for the ERA 1996 claims) and/or it was not just and equitable to extend time (for the EqA 2010 claims). All of these issues were for claims brought against the Second Respondent.
2. The Claimant had also via his ET1 issued claims against the First Respondent. It was agreed between the parties that there had been a TUPE transfer from the First to Second Respondent in November 2021, and that there were no claims under TUPE being brought. The Claimant, who at the time was represented by a McKenzie friend, withdrew his claim against the First Respondent, and a judgment was issued dismissing the claim following withdrawal under Rule 52 of the Employment Tribunal Rules of Procedure 2013.
3. On 3<sup>rd</sup> July 2023, Messrs Adam Bernard Solicitors came on record for the Claimant. They made an application for reconsideration the following day. At §5 of the application, the Claimant stated:

*5. The following issues have been identified, which the Employment Tribunal is invited to consider:*

- i. did the Claimant actually withdraw his claim;*
- ii. is the Claimant's claim 65 days out of time and therefore time-barred;*
- and*
- iii. is the Claimant's claim against the Second Respondent not well founded?*

4. At §6, the Claimant went on to state:  
  
*6. The Claimant's position is that he never withdrew his claim against the First Respondent whatsoever and if the said claim was withdrawn by his representatives then he did not authorise them to do this at all*
5. Dealing with the issue of withdrawal first, the Judge's clear recollection is that the Claimant's representative did withdraw the claim against the First Respondent, after discussions with the Tribunal. The Claimant clarified that the correct employer was the Second Respondent, and agreed that he had transferred to the Second Respondent's employment.
6. All of this was done whilst the Claimant had the benefit of an interpreter. If he had disagreed with anything that his representative was saying, he could have interjected or challenged his representative. He did not do so.
7. In any event, given the Claimant's agreement that his employment (and therefore any liabilities) had transferred to the Second Respondent, and that there was no TUPE claim being brought, there was no cause of action against the First Respondent and so there is no reasonable prospect of the original decision to dismiss the claim against the First Respondent upon withdrawal being varied or revoked.
8. The Tribunal can deal with points (i) and (ii) of paragraph 5 of the application relatively briefly. The application does not say why these findings should be varied or revoked. In those circumstances, the Tribunal cannot properly assess the Claimant's application, nor does it reconsider its decision on its own initiative under Rule 70 of the Employment Tribunal Rules of Procedure 2013.
9. Accordingly the Tribunal is 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.
10. 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.

**Employment Judge J Bromige**  
**Dated: 11<sup>th</sup> October 2023**

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