



EMPLOYMENT TRIBUNALS

Claimant: Mr Bernard King

Respondent: Thales DIS UK Limited

JUDGMENT

The Claimant's application dated **29 November 2023** for reconsideration of the judgment dated **1 November 2023** is refused.

REASONS

1. The Claimant's employment with the Respondent terminated on 8 August 2018. He lodged a claim for unfair dismissal on 13 November 2018, this claim was dismissed on 17 June 2019 on the basis that the claim was out of time. The claimant appealed this decision to the Employment Appeals Tribunal and the Court of Appeal but was unsuccessful in both appeals.
2. The Claimant then brought a second claim, which was lodged on 2 August 2021. This claim was for disability discrimination. This claim was dismissed on 2 August 2021 for being an abuse of process, on the basis that the broad factual allegations giving rise to that claim were raised in the first claim. An appeal against this decision is ongoing.
3. This claim was received by the tribunal on 19 March 2023 and brings claims for breach of contract, victimisation, breach of duty of care, sexual discrimination pursuant to the Equality Act 2010 and an unspecified claim relating to the Human Rights Act 1998. Early conciliation occurred at ACAS between 16 and 23 February 2023.
4. I considered this claim at a preliminary hearing held on 3 October 2023. Written reasons for my decision were given in my judgment issued on 1 November 2023. I determined that the complaints of breach of contract were not presented within the applicable time limit, that it was not reasonably practicable to do so but the claims were not presented within a further

reasonable period. In addition, I determined that the complaints of discrimination were not presented within the applicable time limit and it was not just and equitable to extend the time limit. All the claims were therefore dismissed. The judgment was issued to the parties on 17 November 2023.

5. The Claimant now applies for a reconsideration of that Judgment. The grounds are set out in the Claimant's application received on 29 November 2023. In summary, he says that says that important facts were overlooked, misunderstood or ignored, partially or wholly. On this basis he now seeks reconsideration and that his claim should be allowed to continue.
6. The Respondent was invited to comment on the application for reconsideration. It commented on 8 December 2023 that the Claimant had not advanced any new arguments or evidence, the judgment was made having considered all the matters advanced. In addition, whilst setting out reasons why he does not agree with my judgment, the Claimant does not set out any reasons or grounds why my judgment is flawed.
7. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 70 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a decision where it is necessary in the interests of justice to do so. On reconsideration the decision may be confirmed, varied or revoked.
8. Rule 71 provides that an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) was sent to the parties.
9. The process by which the Tribunal considers an application for reconsideration is set out in Rule 72. Where the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Otherwise, the Tribunal shall send a notice to the parties setting out 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.
10. Rules 71 and 72 give the Tribunal a broad discretion to determine whether reconsideration of a decision is appropriate. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of *Liddington v 2Gether NHS Foundation Trust* UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows:

"34. [...] a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously

omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration.

35. Where [...] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.”

11. The Claimant’s application was received within the relevant time limit. I therefore consider it under Rule 72.
12. The Claimant reiterates arguments that he made at the preliminary hearing. All matters advanced there, including the specific matters listed in the reconsideration request, were considered by me. No new evidence is advanced and there are no grounds given for any flaws in my application of the law.
13. In this case, all of the evidence was carefully analysed at and following the hearing by the Tribunal. The claimant may not agree with the conclusions reached but all issues were addressed in my view both fairly and justly. Reiterating his prior arguments does not assist finality in litigation. I do not consider that anything has gone wrong in the analysis of the facts or application of the law. It is not in the interests of justice for these points to be re-opened. If the Claimant does not agree, then that is a matter for an appeal.
14. Accordingly, having carefully considered the Claimant’s application, and bearing in mind the importance of finality in litigation and the interests of both parties, I am not satisfied that there is any reasonable prospect of the Judgment or any part of it being varied or revoked. The application is effectively seeking to re-open matters which have already been decided, and therefore amounts to an attempt at a second bite at the cherry.
15. The application for reconsideration is therefore refused.

Employment Judge H Lumby
Date: 16 December 2023

Judgment sent to Parties: 20 December 2023

For the Tribunal Office