



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr B Downes

**Respondent:** Ready2Go Film, TV and Event Services Limited

## JUDGMENT

The claimant's email of 19 December 2023 has been treated as a second application of for reconsideration of the judgment sent to the parties on 10 November 2023. As with the claimant's first application, this second application is refused.

## REASONS

### The Application

1. The claimant's application asserts that the respondent sought to rely on forged documents in their defence of the claim. The claimant further asks, in strident terms, why his allegation that documents have been forged is not being listened to.

### The Law

2. 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).

3. 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.

4. The importance of finality was confirmed by the Court of Appeal in **Ministry of Justice v Burton and anor [2016] EWCA Civ 714** in July 2016 where Elias LJ said that:

***“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily.”***

5. Similarly in **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the EAT chaired by Simler P said in paragraph 34 that:

***“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 by 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.”***

6. In common with all powers under the 2013 Rules, 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 dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

### **The Application**

7. The claimant’s application for reconsideration appears to relate to the veracity of documents. The claimant’s claim was dismissed because it was presented late. The veracity of the documents in question does not appear to be relevant to the determination of whether the claimant could have presented his claim in time.

8. For the avoidance of any doubt, there has been no consideration of the documents in question. No evidence regarding these documents has been heard or tested. The only issue that has been considered is the time limit issue. The only evidence heard was from the claimant. No finding that the documents are genuine or forged has been made because it is not relevant to the time limit issue, which is the sole jurisdictional question that determined this claim.

### **Conclusion**

9. Having considered this second application made by the claimant I am satisfied that

there is no reasonable prospect of the original decision, that the claim was not presented in time, being varied or revoked. The points of significance to this issue were considered and addressed at the hearing. The application for reconsideration is refused.

**Employment Judge Buzzard**

**9 January 2024**

Judgment sent to the parties on:

15 January 2024

For the Tribunal:

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