EMPLOYMENT TRIBUNALS

BETWEEN

Claimant		**Respondent**
Miss R Robson	AND	Met Office – for and on behalf of The Secretary of State for Science Innovation and Technology Of the United Kingdom of Great Britain and Northern Ireland

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD IN CHAMBERS AT Plymouth **ON** 2 January 2024

EMPLOYMENT JUDGE N J Roper

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the reserved judgment dated 24 November 2023 which was sent to the parties on 13 December 2023 ("the Judgment"). The grounds are set out in her email letter (with attachments) dated 22 December 2023. That letter was received at the tribunal office on the same day 22 December 2023.
2. 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 71 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) were sent to the parties. The application was therefore received within the relevant time limit.

3. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
4. The grounds relied upon by the claimant are in ten numbered paragraphs and are as follows.
5. In the first place in paragraph 1 the claimant requests that a different Employment Judge considers her application because of concerns which she has that I have been "unfairly biased in favour of the respondent". No examples or reasons have been given for this assertion. Given that the application relates to my Judgment, I consider it appropriate for me to deal with this reconsideration application.
6. The reasons for the application for reconsideration are given in general terms in paragraph 2, namely that the claimant asserts that there was an error in reaching the decision because of the lack of evidence to support the decision made. The claimant then goes on to give examples of this, by reference to the evidence heard and the documents referred to at the hearing, in her numbered paragraphs 3 to 8 inclusive. However, all of these matters were in the evidence before the tribunal, both by way of witness evidence and documentary evidence, and were considered, and available for the claimant to refer to during the course of the hearing. To the extent that any aspect was not before the tribunal, there is no suggestion that the claimant was precluded from, or did not have the opportunity, to adduce and rely on any such evidence before or during the hearing.
7. In her paragraph 9 the claimant asserts that all of the agreed List of Issues should now be addressed. However, for the reasons already set out in the Judgment, the List of Issues was adopted and considered, and, where appropriate, addressed in full in the Judgment.
8. Finally, the claimant refers to the witness statement provided by Ms Widger as being in support of her case. However, as already noted in the Judgment, consideration has already been given to this statement. The claimant was not precluded from calling Ms Widger as a witness if she wished, and in her absence her statement of evidence was accepted, albeit with limited weight attached.
9. In short therefore the matters raised by the claimant were considered in the light of all of the evidence presented to the tribunal before it reached its decision.
10. Judicial discretion as to reconsideration should be exercised having regard to the interests of both parties and the public interest in finality in litigation (Outasight VB Ltd v Brown UKEAT/0253/14/LA).
11. The earlier case law suggests that the interests of justice ground should be construed restrictively. The Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/80 (where the applicant was seeking a review in the interests of justice under the former

Rules which is analogous to a reconsideration under the current Rules) the EAT decided that the interests of justice ground of review does not mean "that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".

12. More recent case law suggests that the "interests of justice" ground should not be construed as restrictively as it was prior to the introduction of the "overriding objective" (which is now set out in Rule 2). This requires the tribunal to give effect to the overriding objective to deal with cases fairly and justly. As confirmed in Williams v Ferrosan Ltd [2004] IRLR 607 EAT, it is no longer the case that the "interests of justice" ground was only appropriate in exceptional circumstances. However, in Newcastle Upon Tyne City Council v Marsden [2010] IRLR 743, the EAT confirmed that it is incorrect to assert that the interests of justice ground need not necessarily be construed so restrictively, since the overriding objective to deal with cases justly required the application of recognised principles. These include that there should be finality in litigation, which is in the interest of both parties.
13. In Ebury Partners UK Ltd v Davis EAT [2023] the EAT held that while it may be appropriate to reconsider a decision where there has been some procedural mishap, the jurisdiction should not be invoked to correct a supposed error made by the tribunal after the parties have had a fair opportunity to present their case on the relevant issue. This is particularly the case where the error alleges one of law, which is more appropriately corrected by the EAT.
14. Accordingly, I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge N J Roper
Dated 2 January 2024

Judgment sent to Parties on
15th January 2024

Phoebe Hancock
For the Employment Tribunal