



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J J Oczkowicz

**Respondent:** The Langley Hall Primary Academy Trust

## JUDGMENT

The claimant's application dated **11 December 2023** for reconsideration of the judgment sent to the parties on **5 January 2024** is refused.

## REASONS

1. The judgment in question was given, with reasons, orally at the preliminary hearing on 21 November 2023. Written reasons were not requested at the hearing (and as far as I am aware have never been requested) so I prepared the judgment without written reasons on the same day. It was promulgated on 5 January 2024.
2. The claimant made his application for reconsideration on 11 December 2023. On 20 December 2023 the respondent wrote saying "*We would like to point out that the application has not been properly constituted in accordance with Rule 71 as the Tribunal hasn't issued the written Judgment yet.*"
3. The application for reconsideration was referred to me on 29 January 2023. The claim is listed for a final hearing starting on 5 February 2024.
4. Under rule 71, "*an application for reconsideration shall be presented in writing ... within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) ...*".
5. The point made by the respondent is that an application made before the written record of the judgment is sent cannot be a valid application for reconsideration as it is not an application made "*within*" 14 days of the date on which the written record is sent.
6. There may be something to that point, but with the final hearing now less than a week away it seems to me that if I can address the application now I should do so, so that the final hearing can properly proceed. To the extent necessary

I will vary the time limit for reconsideration under rule 5 so that I can consider this application, even if it is made before the written record of the decision is sent.

7. Rule 72(1) provides:

*“An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked ... the application shall be refused ...”*

8. According to my notes of the reasons for the judgment, the parties agreed that the claimant was one day late in his approach to ACAS for early conciliation. The effect of this was that he did not get the benefit of any extension of time due to ACAS early conciliation and his claim was submitted around a week outside the standard three month time limit.
9. My notes of the reasons for the judgment record that, despite the case management order establishing the hearing providing for evidence, the claimant did not give any evidence about why he was late with either his ACAS early conciliation notification or in the submission of his claim, and accordingly *“there is no evidence that it was not reasonably practicable for the claimant to present his non-discrimination claims in time”*. That is not a complete statement of my reasons, but is a key element.
10. In his application for reconsideration the claimant raises a number of points in relation to the respondent’s behaviour and conduct of his grievance and investigation meetings. He says *“given the above information was missing for the hearing, it should be noted that the school did not follow the correct procedures and this affected the decision for the unfair dismissal claim”*. He goes on to say that the *“dismissal was also unfairly biased towards the respondent as they knew the claimant had a very poor understanding of the English language ...”* and *“there was no evidence provided to the claimant about his dismissal”*.
11. The difficulty for the claimant with this is how any of it relates to the question of whether or not it was reasonably practicable for him to bring the claim within time. One reading of his application is that time should be extended because of the underlying merits of his unfair dismissal claim, but whether his claim is a good one or not is not a relevant consideration in considering whether it was reasonably practicable for him to bring the claim in time. The alternative reading is that all of these are reasons why he was confused about and/or not able to meet the ordinary time limit for his claim. If that is what is intended then it may be relevant to the question of whether it was reasonably practicable for him to bring his claim in time or not, but the claimant gives no explanation of why he did not give this evidence at the preliminary hearing, when he had the opportunity to do so.

12. In those circumstances I consider that the reconsideration application gives rise to no reasonable prospect of the original decision being varied or revoked, and I refuse the application.

Employment Judge Anstis  
Date: 30 January 2024

JUDGMENT SENT TO THE PARTIES ON  
30 January 2024

FOR THE TRIBUNAL OFFICE