EMPLOYMENT TRIBUNALS

Claimant: Mrs N Corrie

Respondent: The Secretary of State for Justice

JUDGMENT

The application of the claimant, dated 4 March 2024, for reconsideration of the Judgment made on 9 February 2024 and sent to the parties on 19 February 2024, is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The Judgment was issued after a lengthy hearing. A significant amount of documentation was considered. A large amount of evidence was heard and considered, including the evidence given by the claimant personally (as the second claimant in the case).

2. The application to reconsider relies entirely upon information provided in evidence, and arguments put forward, at the liability hearing. There does not appear to be anything within the application for reconsideration which is new, or which was not considered when the Judgment was determined.

3. The application for reconsideration does not provide any information about events which have occurred since the hearing, or detail that evidence/documents have come to the claimant's attentions since the hearing. The application appears to be based upon facts and arguments about which the claimant was aware at the time of the hearing.

4. 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). The Court of Appeal in **Ministry of Justice v Burton** [2016] EWCA Civ 714 has emphasised the importance of finality, which militates against the discretion being exercised too readily. In exercising the discretion, I must have regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other parties to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

5. In **Ebury Partners UK v Davis** [2023] IRLR HHJ Shanks said:

> "*The employment tribunal can therefore only reconsider a decision if it is necessary to do so 'in the interests of justice.' A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a 'second bite of the cherry' and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT.*"

6. The circumstances outlined, when it might be appropriate to reconsider a decision, are not present in this case. The application for reconsideration is, in effect, a second bite at the cherry.

7. 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.

8. 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, so far as practicable, saving expense. Achieving finality in litigation is part of a fair and just adjudication.

9. I do not find that it is necessary in the interests of justice to reconsider the Judgment, based upon the application made by the claimant. There is no reasonable prospect of the original decision being varied or revoked, based upon the reasons given. The application for reconsideration is refused.

10. Within the application made for reconsideration, the claimant raises issues with timescales. Paragraphs 118-119 and 122-123 of the liability Judgment addressed the issues of time and jurisdiction as they applied to this claimant. We found that the claim was entered outside the primary time limit for all of her claims, but that it would have been just and equitable to extend time for her claims. Accordingly, the points raised regarding time scales could not have resulted in any change to our decision even had they been considered as part of a reconsideration application, because we have already found that we had jurisdiction to consider the claimant's claims (because it would have been just and equitable to extend time to do so).

11. This application for reconsideration has been considered in relation to this claimant only and not the other claimant whose claims were determined at the same liability hearing. It was not entirely clear whether the application was made on behalf of both claimants, but it has been considered as an application made by this claimant only because of the fact that the application was sent signed off by this claimant only, with a covering email from this claimant only, and she is not (and never has been) the representative of the other claimant. However, the reasons for the decision which I have reached would have applied equally to an

application made by the other claimant (had she made an application in the same terms).

Employment Judge Phil Allen

18 March 2024

JUDGMENT SENT TO THE PARTIES ON

27 March 2024

FOR THE TRIBUNAL OFFICE