



EMPLOYMENT TRIBUNALS

Claimant Ms Silmara Mele
Respondent B & M Retail Limited

Refusal to Reconsider

The claimant's application dated 16 April 2024 for reconsideration of the judgment sent to the parties on 27 March 2024 is refused.

Relevant law

1. Rule 70 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 provides that a Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so.

2. Rule 71 provides that an application for reconsideration shall be presented in writing and copied to all the other parties 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) and shall set out why reconsideration of the original decision as necessary.

3. Rule 72 provides that an Employment Judge shall consider any application made under Rule 71. Where practicable the consideration shall be made by the Employment Judge who made the original decision or who chaired the full tribunal which made it. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused.

4. At tribunal dealing with an application for reconsideration must seek to give effect to the overriding objective to deal with cases fairly and justly contained within Rule 2 of the Regulations. This includes ensuring that the parties are an equal footing, dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delay, so far as compatible with proper consideration of the issues, and saving expense.

5. Consideration of whether reconsideration is "necessary in the interests of justice" allows the Tribunal a broad discretion which must be exercised judicially which means having regard not only to the interests of the party seeking the reconsideration but also to

the interests of the other party to the litigation, and to the public interest requirement that there should be so far as possible finality in litigation.

Reasons for Refusal

6. The application is made out of time. The 14 day deadline for requesting reconsideration of a judgment promulgated on 27 March 2024 was 10 April 2024.

7. I have read Miss Mele's application in full. It is 16 pages of single spaced A4 commentary and it takes the form of a detailed response to the Reserved Judgment document (which was itself 24 pages long) paragraph by paragraph. It restates evidence that was before the Tribunal and makes an emotional appeal for that evidence to be reconsidered. The grounds on which Miss Mele seeks reconsideration are succinctly summarized when she says "*I am very disappointed with the ruling that had been given....a lot of the above (quotations of factual findings from the judgment) is wrong in a lot of ways*". Miss Mele seeks reconsideration because she wants a different decision on the same material. The law as set out above does not allow for that.

8. If the application had been made in time it would not have been in the interests of justice to reconsider this decision.

Employment Judge **Aspinall**
Date 26 April 2024

JUDGMENT SENT TO THE PARTIES ON
2 May 2024

FOR THE TRIBUNAL OFFICE