



EMPLOYMENT TRIBUNALS

BETWEEN:

Miss B Lock

and

Wm Morrison Supermarkets
plc

Claimant

Respondent

Application for Reconsideration

JUDGMENT

The Claimant's application to reconsider is **refused** under Rule 72(1) as there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. This is the preliminary consideration of the claimant's application for reconsideration of the judgment dated 14 September 2023. That judgment struck out the claimant's claims against the respondent. There is some confusion as to whether that judgment was sent out by the tribunal on 23 October 2023. There is now a note from the tribunal's administrative staff on the file stating that there is no record of the judgment being sent to the parties by email on 23 October 2023. It appears therefore that the judgment was not sent out to the parties on 23 October 2023. I can only apologise for the oversight by the tribunal's administrative staff.
2. I should however state that written reasons for my decision were requested by the claimant and sent to the parties on 11 January 2024. I also understand the parties raised the fact that they did not receive the judgment that was sent on 23 October 2023 and so the judgment was sent to them on 26 February 2024.
3. The claimant emailed the tribunal on 10 March 2024 requesting a reconsideration of the judgment sent to the parties on 26 February 2024. The email requesting a reconsideration of the judgment sets out the claimant's challenges over 4 pages. There appear to be

approximately 18 grounds for the reconsideration cited. Grouped broadly, they are as follows: -

- a. That the tribunal incorrectly stated that the judgment had been sent to the parties on 23 October 2023.
 - b. The manner in which I conducted the hearing.
 - c. That the tribunal is collaborating with the respondent and its legal representatives.
 - d. That the tribunal has contravened the Fraud Act 2006.
 - e. That the tribunal has committed a number of breaches of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.
 - f. That the tribunal has committed criminal offences.
4. Such an application falls to be considered under rules 70-72 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. Rule 71 provides that 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. I accept the claimant did not receive the judgment until 26 February 2024 and so the claimant's application was received within the relevant time limit.
 5. By rule 70, the tribunal may reconsider any judgment where it is necessary in the interests of justice to do so and, if it decides to do so, may vary, revoke or confirm the original decision. Since the introduction of the present rules there has been a single threshold for making an application. That is that reconsideration is necessary in the interests of justice. There must therefore be something about the nature of how the decision was reached, either substantively or procedurally, from which the interests of justice would be offended if the original decision was allowed to stand.
 6. By rule 72(1) I am to give initial consideration to the prospects of the application which determines whether it is necessary to seek the views of the respondent and whether the matter can be dealt with on paper or at a further hearing before the same tribunal. Where the application can be said to carry no reasonable prospects of being varied or revoked, the rules dictate that I shall refuse the application without being required to consider the matter further.
 7. Rules 71 and 72 give the Tribunal a broad discretion to determine whether reconsideration of a decision is appropriate. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of **Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA**. Paragraphs 34 and 35 provide as follows:

“34. [...] 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 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. Tribunals have a wide discretion whether or not to order reconsideration.

35. Where [...] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.”

8. Turning now to the points raised in the application, I am satisfied that the judgment did not reach the parties in October 2023. It appears it was not sent by the tribunal’s administrative staff on 23 October 2023. The parties did however receive written reasons, which were sent on 11 January 2024. The parties also received a copy of the judgment after it was sent on 26 February 2024. This does not give rise to any basis for re-opening the decision and there has been no mischaracterisation of information by the tribunal in respect of this matter.
9. The claimant has accused the tribunal of collaborating with the respondent and its representatives, contravening the Fraud Act 2006 and committing criminal offences. These allegations are unsupported by any evidence. In addition, I can see nothing in the allegations relating to the manner in which the proceedings were conducted which gives rise to any procedural or other basis for re-opening the decisions.
10. The claimant has also accused me of wrongdoing. I observe that she also accused me of bias at the hearing itself, before I had delivered judgment. At the hearing I treated the accusation of bias as an application by the claimant to recuse myself and also provided reasons to the claimant in relation to her application. Of course, it is inherently difficult for any person to consider an accusation of wrongdoing or bias directed at them. For the record I was not biased. I do not consider anything said or done could reasonably have given the appearance of bias.
11. Having carefully considered the claimant’s application, and bearing in mind the importance of finality in litigation and the interests of both parties, I am not satisfied that there is any reasonable prospect of the judgment being varied or revoked. The application for reconsideration is therefore refused.

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Employment Judge McTigue
Date: 7 May 2024

JUDGMENT SENT TO THE PARTIES ON
14 May 2024
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AND ENTERED IN THE REGISTER
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FOR SECRETARY OF THE TRIBUNALS