



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Manoharan

**Respondent:** Searce UK Limited

**London Central  
Employment Judge Goodman**

**25 July 2024**

## RULE 72 RECONSIDERATION ORDER

The claimant's application dated 18 July 2024 for reconsideration of the judgement sent to the parties on 5 July 2024 is dismissed because it has no reasonable prospects of success .

## REASONS

1. Following a preliminary hearing in public a judgement was sent to the parties on the 5th of July dismissing all claims. The claimant applies for reconsideration of the dismissal of claims brought under the employment rights act 1996 and Equality Act 2010, on grounds that they were out of time and either that it was reasonably practicable to have presented them in time, or that it was not just and equitable to extend time.

### **Relevant Law**

2. Under the Employment Tribunal Rules of Procedure 2013 a request for reconsideration may be made within 14 days of the judgment being sent to the parties – the application is in time.
3. By rule 70 a Tribunal “may reconsider any judgment where it is necessary in the interest of justice to do so”, and upon reconsideration the decision may be confirmed, varied or revoked.

4. Rule 72 provides that an Employment Judge should consider the request to reconsider, and if the judge considers there is no reasonable prospect of the decision being varied or revoked, the application shall be refused. Otherwise it is to be decided, with or without a hearing, by the Tribunal that heard it.
5. Under the 2004 rules prescribed grounds were set out, plus a generic “interests of justice” provision, which was to be construed as being of the same type as the other grounds, which were that a party did not receive notice of the hearing, or the decision was made in the absence of a party, or that new evidence had become available since the hearing provided that its existence could not have been reasonably known of or foreseen at the time. **Ladd v Marshall (1954) EWCA Civ 1** set out the principles on which evidence could be admitted after the judgment: it could not have been obtained with reasonable diligence before the hearing; it would have an important influence on the outcome; the evidence was apparently credible. The Employment Appeal Tribunal confirmed in **Outsight VB Ltd v Brown UKEAT/0253/14/LA** that the 2013 rules did not broaden the scope of the grounds for reconsideration (formerly called a review); the ET will generally apply the **Ladd v Marshall** criteria, although there is a residual discretion to permit further evidence not strictly meeting those criteria to be adduced if for a particular reason it is in the interests of justice to do so.
6. When making decisions about claims the tribunal must have regard to the overriding objective in rule 2 of the 2013 regulations, to deal with cases fairly and justly, which includes ensuring that the parties are on 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, and seeking expense.

### **Discussion and Conclusion**

7. As I read the claimant’s application for reconsideration, he does not seek to adduce additional evidence. He argues that the wrong weight has been placed on the evidence heard by the tribunal. Nor is it suggested that he did not have an opportunity to make submissions at the hearing. The tribunal heard the evidence, make findings of fact, and applied the different tests about time limits to each group of claims. I appreciate that the claimant is disappointed by the outcome, but reconsideration is not an opportunity for a second bite of the cherry. There must be finality in judgement. If the claimant considers that the law has been wrongly stated or wrongly applied his recourse is an appeal to the employment Appeal Tribunal.
8. The claimant raises an apparent claim in contract arising from the return of his laptop To the respondent on the day of the hearing, which was a condition imposed by the respondent before they restored a deduction of £2,800 from his wages, and an apparent concession that they would pay the remaining 60 days of notice if it was re returned.

9. To the to the extent that the breach of the alleged bargain occurred on or after the return of the laptop on the 5th July, the claimant could consider making a fresh claim, whether in the employment tribunal or the county court. This is not advice and It is suggested that it would be wise to seek legal advice. It is not grounds for reconsideration of the judgment that the claims before the tribunal were in time.
10. The application for reconsideration has no reasonable prospect of success. It is therefore dismissed under rule 72.

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Employment Judge GOODMAN

Date 25 July 2024

JUDGMENT SENT TO THE PARTIES ON

31 July 2024

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FOR THE TRIBUNAL OFFICE