



EMPLOYMENT TRIBUNALS

Claimant: Mr M Scholfield
Respondent: Apple Retail UK Limited

JUDGMENT

The claimant's application of 1 August 2024 for reconsideration of the judgment sent to the parties on 19 July 2024 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, for the following reasons.

1. The Claimant has repeated some points and submissions that were made to the Tribunal at the full hearing. These matters were taken into account when the Tribunal made its decision.
2. The Claimant has also expanded on some of his points and submissions. He says, "...*there are some points that may not have been taken into account that are relevant, and I ask that they are taken and reconsidered*". However, the reconsideration process is not an opportunity to make new points or arguments that could have been made during the hearing. There should, where possible, be finality of litigation. A Tribunal cannot reconsider its judgment because a party has thought of additional arguments that could have made at the hearing, or because a party does not agree with the Tribunal's decision.
3. The Claimant has also produced some new evidence – a text exchange which he says shows he was not at work when a particular incident is alleged to have happened, and a photograph from social media of physical contact between the person who made the complaint and another employee.
4. New evidence may be grounds for a reconsideration. However, this will only be in the interests of justice if it could not have been obtained with reasonable diligence for use at the original hearing, was relevant and would probably have had an important influence on the hearing, and is apparently credible (*Ladd v Marshall* 1954 3 All ER 745, CA). The Claimant has not explained why this evidence could not have been obtained for the

hearing. I also note that this evidence is only relevant to some of the issues in the case. The Tribunal's decision was not based on certainty about the date of the relevant incident, or on whether the individual who complained had issues with physical contact between employees more generally. I do not consider that either of these new documents would have had an important influence on the hearing.

5. The test for a reconsideration is whether this would be in the interests of justice. This decision is based on the facts found at the hearing and the application of the relevant law to those facts, and took into account all of the submissions that both parties made at the hearing. Full reasons were given for this decision. The Claimant does not agree with the outcome. However, the Tribunal is not able to reconsider its judgment simply because the Claimant does not agree with it or wishes to explain his position further after receiving the decision.

Employment Judge Oliver

Date 24 August 2024

JUDGMENT SENT TO THE PARTIES ON

2 September 2024

Jade Lobb
FOR THE TRIBUNAL OFFICE