



# EMPLOYMENT TRIBUNALS

**Claimant:** Z

**Respondent:** Network Rail Infrastructure Limited

## JUDGMENT

The Claimant's application dated 28<sup>th</sup> June 2024 (with a follow up on 15 July and 30<sup>th</sup> July) for reconsideration of the Judgment sent to the parties on 17 June 2024 is refused under rule 72 of the Employment Tribunals Rules of Procedure 2013. There is no reasonable prospect of the original decision being varied or revoked.

## REASONS

1. Under Rule 70 of the Employment Tribunal Rules of Procedure 2013 a Tribunal "may reconsider any judgment where it is necessary in the interests of justice to do so", and upon reconsideration the decision may be confirmed, varied or revoked.
2. 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.
3. Under the 2004 rules prescribed grounds were set out, plus a generic "interests of justice" provision. The prescribed grounds were that the decision was made because of an administrative error, a party did not receive notice of the hearing, 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.
4. The 2013 rules refer only to the interests of justice but The Employment Appeal Tribunal confirmed in Outasight VB Ltd v Brown

UKEAT/0253/14/LA that the 2013 rules did not change the approach to be adopted or broaden the scope of the grounds for reconsideration. A reconsideration is not a means by which a party can reargue the case that was, or could have been, made at the hearing. Something particular is required to establish this ground, beyond the fact that the party is disappointed with the decision.

- 5. In exercising its discretion the Tribunal must have 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, so far as possible, be finality of litigation.
- 6. The Claimant suggests that there is an inconsistency between paragraph 6 of the earlier Judgment of Employment Judge Brown and paragraph 66 of the Judgment sent to the parties on 17 June. Disability was conceded in relation to the Claimant’s HIV status as recorded in both Judgments, Paragraph 6 of the Brown Judgment does not state from what date the Respondent conceded disability by reason of anxiety and depression. In any event the date that the Claimant became disabled by reference to that condition was not important to the decision being made as the Tribunal found that the Respondent had no knowledge of this condition and no reason to consider that he did so until May 2021.
- 7. An application for reconsideration is not a vehicle for challenging a tribunal’s reasons or, in so far as they do not form part of the essential reasoning upon which the decision is based. (*Ameyaw v PricewaterhouseCoopers Services Ltd EAT 0291/19*)
- 8. The Claimant believes that witnesses gave untrue evidence but the Tribunal has weighed the evidence which was available to it at the hearing and made its findings
- 9. I conclude that here are no valid grounds for a reconsideration.

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Employment Judge F Spencer  
Dated 16 September 2024

JUDGMENT SENT TO THE PARTIES ON  
24 September 2024  
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FOR THE TRIBUNAL OFFICE