



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr John Airey

v

IRIS Group Limited

UPON THE CLAIMANT'S APPLICATION pursuant to rule 71 of the Employment Tribunals Rules of Procedure 2013 for reconsideration of the judgments delivered orally on 16 July 2024 and sent in writing to the parties on 29 August 2024.

JUDGMENT on RECONSIDERATION APPLICATION

1. The Claimant is granted an extension of time to 14 September 2024 to make his application for reconsideration.
2. The Tribunal determines that a hearing is not necessary in the interests of justice.
3. The Claimant's reconsideration application is refused.

REASONS

There is no reasonable prospect of the original decisions being varied or revoked for the following reasons:

1. Rule 70 of the Employment Tribunal Rules of Procedure 2013 empowers the Tribunal, either on its own initiative or on the application of a party, to reconsider any judgment where it is necessary in the interests of justice to do so. Under Rule 72(1), an Employment Judge may determine an application on their own and without a hearing if they consider that there is no reasonable prospect of the original decision being varied or revoked.
2. The Claimant's application for reconsideration was made two days outside the normal time limit in Rule 71 for making such an application. He explained that he had been unwell for three days, possibly with Covid, furthermore that he had only become aware the previous day of the time

limit for making such an application, in which case, it seems to me that he acted promptly in submitting his application once aware of the applicable time limit. I am satisfied that it is in the interests of justice to extend time for the Claimant to make his application.

3. The starting point clearly has to be the decisions the Tribunal reached at the conclusion of the hearing. We gave a detailed oral judgment on 16 July 2024. Our reasons on liability were confirmed in writing following an immediate request by the Claimant on 16 July to be provided with written reasons.
4. Should these matters be examined on appeal, it will be for the Employment Appeal Tribunal to say whether those reasons and our decision can stand. Any suggestion that we erred in Law, including that our findings were perverse, is generally a matter for appeal - Ebury Partners UK Ltd v Acton Davis [2023] EAT 40.
5. In Outasight VB Ltd. v Brown UK EAT/0253/14, the Employment Appeal Tribunal considered the Tribunals' powers under Rule 70 of the Employment Tribunal Rules of Procedure 2013. At paragraphs 27 – 38 of her Judgment Her Honour Judge Eady QC, as she then was, set out the legal principles which govern reconsideration applications, and observed,

“The interests of justice have thus long allowed for broad discretion, albeit one that must be exercised judicially, which means having regard not only to the interests of the party seeking the review or 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.”

These principles were affirmed by His Honour Judge Shanks in Ebury Partners.

6. I consider that there is no reasonable prospect of the original decision being varied or revoked. The majority of the points raised by the Claimant in his application were explored during the hearing and are addressed in the Tribunal's written reasons, including our approach when the Claimant sought to introduce matters outside the ambit of his claim, for example complaints that he had either withdrawn or confirmed that he was not pursuing when these were discussed at an earlier stage in the proceedings. There is a clear and obvious need for finality in this litigation, and the interests of justice do not require that the Claimant should be given a further opportunity to argue these various points or that the Tribunal should revisit its decision.
7. In Outasight, the Employment Appeal Tribunal was referred to the EAT's Judgment in Redding v EMI Leisure Ltd. EAT/262/81 in which the EAT had observed:

“...When you boil down what is said on [the Claimant’s] behalf, it really comes to this: that she did not do herself justice at the hearing so justice requires that there should be a second hearing so that she may. Now, “justice” means justice to both parties. It is not said, and, as we see, cannot be said that any conduct of the case by the employers here caused [the Claimant] not to do herself justice. It was, we are afraid, her own experience in the situation...”

8. The Claimant says that had he known that the withdrawal of claims might prejudice him, he would have raised the matter at the relevant time. However, he also says that he was being assisted pro bono by a firm of employment solicitors. There is certainly no suggestion of any conduct by the Respondent that caused him not to do himself justice in the matter. In any event, as we observed in our judgment, the Claimant did not apply to amend his claim to add any new complaints. Inevitably therefore we remained focused on the claim that was before the Tribunal.
9. As to the Claimant’s suggestion that he was not listened to, we set out in our written reasons the various steps that were taken by the Tribunal in the light of his disability and vulnerability to ensure that he was heard and able to give his best evidence. We additionally took two breaks in the course of giving our judgment to support the Claimant’s understanding and ability to follow the judgment as it was delivered.
10. As regards the Claimant’s request for re-engagement, whilst the Tribunal noted that the Claimant had not indicated in form ET1 or elsewhere that he was seeking re-engagement, we went on to consider the matter, but for the reasons given at the hearing we refused to make orders for reinstatement or re-engagement. Written reasons were not sought in respect of the Tribunal’s decision on remedy.

Employment Judge Tynan
25 September 2024
Date:

Judgment sent to the parties on
16 October 2024
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For the Tribunal office

**Case Number:- 3304964/2022;
3312645/2022;
3301684/2023.**

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>