



# EMPLOYMENT TRIBUNALS

**Claimant:** Farah Khan

**Respondent:** John Lewis Plc

**Heard at:** London Central Employment Tribunal    **On:** 30<sup>th</sup> December 2024  
Determined on the papers

**Before:** Employment Judge Gidney

## Appearances

For the Claimant: Not present or represented

For the Respondent: Not present or represented

## RECONSIDERATION JUDGMENT

The Claimant's application dated 5<sup>th</sup> December 2024 for reconsideration of the Judgment sent to the parties on 22<sup>nd</sup> November 2024 is refused.

## REASONS

1. This matter was determined on 6<sup>th</sup> November 2024. The matters that the Tribunal was tasked to resolve by Employment Judge Khan on 10 October 2024 were:

1.1. To decide the Claimant's application to amend (if pursued);

- 1.2. To decide the Respondent's applications for strike out and / or a deposit order dated 23 July and 3 October 2024;
  - 1.3. To finalise the list of issues; and,
  - 1.4. To make any other necessary case management orders.
2. This matter was due to start at 10.00am on 6<sup>th</sup> November 2024. At 8.05am on 6<sup>th</sup> November 2024 the Claimant emailed the Tribunal in the following terms: '*Unwell - Unable to attend because of medical reasons as already stated*'. The Claimant did not copy the Respondent into that communication. It was not supported by any medical evidence. Despite plainly being aware of the hearing the Claimant did not respond to the Tribunal's two emails asking for medical evidence to support the application and did not answer the Tribunal's two attempts to contact the Claimant by telephone.
3. In the absence of any further application or evidence in support of the application, I refused the Claimant's application to postpone the hearing. The following was of note:
  - 3.1. The Claimant's failure to comply with the Presidential Guidance on seeking adjournments by failing to provide any medical evidence at all;
  - 3.2. That this was the 4<sup>th</sup> occasion that the case had been listed for Case Management;
  - 3.3. The Claimant's failure, contrary to the Order of Employment Khan on 9<sup>th</sup> July 2024, to provide a written amendment application, and the refused by that Judge to grant any amendment on 19<sup>th</sup> September 2024;
  - 3.4. That the final hearing was listed in April 2025 and that it would jeopardise that final hearing if the pleadings were not closed and the List of Issues finalised.
4. The Tribunal has power to reconsider any judgement where it is necessary and in the interests of justice to do so. Rule 72 of the Employment Tribunals Rules of Procedure sets out the process for reconsideration requests. It directs that if the Judge considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused.

5. In **Trimble v Supertravel Ltd** [1982] IRLR 451 the Employment Appeal Tribunal emphasised that the reconsideration procedure is there so that where there has been an oversight or some procedural occurrence, such that a party cannot be said to have had a fair opportunity to present their arguments on a point of substance, they can bring the matter back to the tribunal for adjudication. The Claimant has been given that opportunity and has chosen not to engage with it. An application for reconsideration under all 70 must include a weighing of the injustice to the applicant if the reconsideration is refused, and the injustice to the respondent, if it is granted, also giving weight to the public interest in the finality of litigation: **Phipps v Primary Education Services Limited** [2023] EWCA Civ 652. It is valuable to draw attention to the importance of the finality of litigation and the view that it would be unjust to give the losing party a second bite of the cherry: **Newcastle Upon Tyne City Council v Marsden** [2010] ICR 743. In this case the final hearing is listed in April 2025 and the case has been case managed on 4 prior occasions. It is not consistent with the overriding objective to re-open the issues at this stage and jeopardise the final hearing.
6. The factors to be considered in determining whether it is in the interests of justice to reconsider a decision can still include the specific grounds identified in the 2004 Rules of Procedure, namely (i) whether decision was wrongly made as a result of an administrative error; (ii) where a party did not receive notice of the proceedings leading to the decision, (iii) where the decision was made in the absence of a party; and (iv) when evidence had become available since the conclusion of the hearing which could not have been reasonably known or foreseen at the time. Whilst the decision was made in the Claimant's absence, she had not established a valid reason for her non-attendance which was supported by the evidence.
7. The Claimant has not set out or identified the basis for her reconsideration request. For the reasons stated I consider that there is no reasonable prospect of the decision to refuse an adjournment being varied or revoked, the application to reconsider the decision is refused.

8. Further, in so far as the Claimant seeks a reconsideration of the Judgment to strike out parts of her Claim Form, that application for reconsideration is also refused. The law referred to above is relied on again. The application was made on notice and the basis for striking out those parts of the Claimant's claim that were out of time was set out in detail. The Respondent called evidence as to the prejudice it would suffer in having to deal with such claims. That evidence was not contested and was accepted. The Claimant has not set out or identified the basis for her reconsideration request.
9. In the circumstances the application for a reconsideration is refused on the grounds that it has no reasonable prospects of success.
10. In all of the circumstances it is my judgment that there is no reasonable prospect of the original decision being varied or revoked, because, for the reasons stated above, it would not be in the interests of justice to do so.

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Employment Judge **Gidney**

Dated this 30<sup>th</sup> December 2024

JUDGMENT SENT TO THE PARTIES ON

3 January 2025

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FOR THE TRIBUNAL OFFICE