EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Lanes Group plc

JUDGMENT

The claimant's application dated **18 November 2024** for reconsideration of the judgment, sent to the parties on **14 November 2024** is refused as it has no reasonable prospects of success.

REASONS

1. Rules 68-70 of the Tribunal Rules provides as follows:

> **70. Principles**
> (1) The Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.
> (2) A judgment under reconsideration may be confirmed, varied or revoked.
> (3) If the judgment under reconsideration is revoked the Tribunal may take the decision again. In doing so, the Tribunal is not required to come to the same conclusion..
>
> **69. Application for reconsideration**
> Except where it is made in the course of a hearing, an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of—
> (a) the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or
> (b) the date that the written reasons were sent, if these were sent separately..
>
> **70.— Process for reconsideration**
> (1) The Tribunal must consider any application made under rule 69 (application for reconsideration).
> (2) If the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the Tribunal must inform the parties of the refusal. …

2. The Tribunal has discretion to reconsider a judgment if it considers it in the interests of justice to do so. Rule 70(2) requires the judge to dismiss an application if the judge decides that there is no reasonable prospect of the original decision being varied or revoked. Otherwise, the application is dealt

with under the remainder of Rule 70.

3. When deciding what is "necessary in the interests of justice", it is important to have regard to the overriding objective 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, so far as compatible with proper consideration of the issues; and saving expense.

4. In deciding whether or not to reconsider the judgment, the tribunal has a broad discretion, which must be exercised judicially, having 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.

5. The reconsideration rules and procedure are not intended to provide an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way. They are not intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed (with or without different emphasis). Nor do they provide an opportunity to seek to present new evidence that could have been presented prior to judgment.

6. Under the current version of the rules, there is a single ground for reconsideration — namely, *"*where it is necessary in the interests of justice*".* In Outasight VB Ltd v Brown 2015 ICR D11, the EAT explained that the 2013 revision to the rules had not been intended to make it more easy or more difficult to succeed in a reconsideration application. Earlier versions of the rules had included specific examples of potential grounds for reconsideration; the omission of those specific examples did not mean that those things were no longer possible routes to reconsideration; an application relying on any of those arguments can still be made in reliance on the "interests of justice" ground.

7. Previous appellate decisions (even under earlier versions of the Rules) can provide helpful guidance to a judge, but they are not intended as a checklist. The individual circumstances of the particular application have to be considered on their own merits.

8. It is not necessary for the applicant to go as far as demonstrating that there were exceptional circumstances justifying reconsideration. There does, however, have to be a good enough justification to overcome the fact that, when issued, judgments are intended to be final (subject to appeal) and that there is therefore a significant difference between asking for a particular matter to be taken into account before judgment (even very late in the day)

and after judgment.

9. As was stated in Ebury Partners Uk Limited v Mr M Acton Davis: [2023] EAT 40

> The employment tribunal can therefore only reconsider a decision if it is necessary to do so "in the interests of justice." A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a "second bite of the cherry" and the jurisdiction to reconsider should be exercised with caution.

The application

10. On 18 November 2024, the Claimant made an application for reconsideration which was in time, and which complied with the procedural requirements.

11. The Claimant seeks an increase in the injury to feelings award which was made.

12. I take account of all the circumstances, including that the Claimant required (and was provided with) an intermediary. I do take into account that those circumstances might have made it more difficult for the Claimant, than for someone without his disabilities, to prepare his submissions/arguments in relation to remedy (or any other aspect of the case).

13. However, I was aware of those facts at the time, and took them into account at the time. I am satisfied that I already took into account all relevant matters when assessing remedy. Nothing in the Claimant's application alters my view about that, and there is no reasonable prospect of my changing my decision.

14. For the reasons stated above, having considered the application, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked, and the application is refused.

Approved by: **Employment Judge Quill**

Date: 16 January 2025

JUDGMENT SENT TO THE PARTIES ON

17/01/2025

FOR THE TRIBUNAL OFFICE