



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr L Rees

**Respondent:** Cardiff Council

## JUDGMENT

The Claimant's application dated 3 December 2024 for reconsideration of the judgment sent to the parties on 3 July 2024 (written reasons sent on 29 July 2024) is refused.

## REASONS

1. There is no reasonable prospect of the original decision being varied or revoked. The Claimant has applied for reconsideration more than 14 days after the judgment was sent to him. The Claimant has not explained why the application has been made out of time and it is not in the interests of justice to extend time. The Claimant is attempting to relitigate matters determined by the Tribunal, has misrepresented what the Tribunal found, and the alleged new material would not in any event have altered the judgment.
2. Rule 70 (2024 Rules) requires that the hearing judge decides whether there is any reasonable prospect of the original decision being varied or revoked.
3. The Claimant has applied outside of the 14-day window under Rule 68. Having checked the administration file, I can see that the standard information was sent to the Claimant with the judgment including information about reconsideration. The letter from the Tribunal underlines the information about reconsideration. The Claimant received this letter and the judgment, as shown by his prompt request for written reasons. I therefore cannot accept that the Claimant was unaware. He has given no reason why time should be extended.
4. However, if I am incorrect about refusing to extend time, I have considered the substantive application. The grounds of the Claimant's reconsideration application are based on additional medical evidence that he says was not available at the time of the final hearing. The Claimant asserts that he has now been diagnosed with Hidradenitis Suppurativa ("HS") on 18 July 2024 (though the evidence provided to me does not give that date, a sick note of 2 August 2024 has been provided).
5. I considered the Ladd v Marshall [1954] EWCA Civ 1 requirements, summarised by Lord Denning as *"In order to justify the reception of fresh evidence or a new trial, three conditions must be fulfilled: first, it must be shown that the evidence could not have been obtained with reasonable diligence for use at the trial: second, the evidence must*

*be such that, if given, it would probably have an important influence on the result of the case, though it need not be decisive: thirdly, the evidence must be such as is presumably to be believed, or in other words, it must be apparently credible, though it need not be incontrovertible.”*

6. The Claimant has not shown that the additional evidence could not have been obtained for use at the final hearing; I reminded myself that the medical evidence at the final hearing showed that periods of time passed when the Claimant was not in contact with his GP, which undermined his contention that he was suffering as severely alleged with his scrotal itching. The Claimant could have sought medical assistance more promptly, and the diagnosis being so soon after the final hearing demonstrates that. The Claimant's application fails to meet the first requirement of the Ladd v Marshall test.
7. I also consider that the Claimant's application fails to meet the second requirement of Ladd v Marshall. The Claimant has incorrectly stated that the Tribunal considered his symptoms to be psychological; that was not the finding made as shown by the written reasons. What the Tribunal did find was that the evidence did not support the Claimant's assertions about the severity of the itch and it was not the reason why the Claimant was off work (paragraphs 26 and 42). The Claimant by the time of the appeal was asserting that the itch was resolved (paragraph 39); the issue of diagnosis is irrelevant. The Tribunal applied the relevant law for unfair dismissal; the focus is on what the Respondent knew and the Burchell questions. It is not a relevant question whether the Claimant has HS; a formal diagnosis is not required, even for discrimination claims.
8. The Claimant has not detailed any reason why the judgment should be reconsidered, other than providing limited medical evidence postdating the final hearing and a copy of the Notice of Appeal. In case the Claimant relies on the matters in his appeal for this application, the Tribunal did not as alleged by the Claimant accuse him of “*wasting tax payers money*”. The Claimant raised the argument of a physical examination by Occupational Health at the final hearing; this is not a new argument and was considered at the final hearing, though the Claimant has now changed the focus of this argument to the issue of scarring. This was not his argument at the final hearing, which he could have made if he so wished.
9. I cannot see any reasonable prospect of the new material, which in my view could have been obtained previously with reasonable diligence by the Claimant, having an important influence on the result of the case and the application for a reconsideration is refused.
10. The Judge apologises for the delay in responding to the Claimant's application. It was not referred to her by the administration until 14 January 2025.

Employment Judge C Sharp  
Dated: 16 January 2025

JUDGMENT SENT TO THE PARTIES ON

30 January 2025

Adam Holborn  
FOR THE TRIBUNAL OFFICE