



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Kuzniar

**Respondent:** Roxdent Ltd

**Before:** Employment Judge Nicolle in Chambers

## Judgment

1. The Claimant's application dated 26 January 2025 (and received by the tribunal on 27 January 2025) for reconsideration of the Tribunal's judgment dated 8 January 2025 (the judgement), and sent to the parties on 10 January 2025, is refused.
2. Whilst the judgement was reconsidered pursuant to Rule 69 of the Employment Tribunals (Constitution & Procedure Regulations) 2013 (the Rules) on the initiative of EJ Nicolle to add paragraph 92, and further at the request of the respondent to correct a minor error in paragraph 104, the 14 day time period to make an application pursuant to Rule 69 commenced when the judgment was sent to the parties on 10 January 2025 and therefore the reconsideration application is out of time. Nevertheless, EJ Nicolle has exercised his discretion pursuant to Rule 5 (7) to extend time so that the reconsideration application is valid and has been considered by him.

## Reasons

3. I have considered the application by the Claimant dated 26 January 2025 for a reconsideration of the Judgment (the Reconsideration Application).
4. I have considered the Reconsideration Application in accordance with the provisions set out in Rule 68, which provides that reconsideration is only

appropriate where it is necessary in the interests of justice, and under Rule 70 that there is a reasonable prospect of the original decision being varied or revoked.

5. Reconsiderations are limited exceptions to the general rule that employment tribunal decisions should not be reopened and relitigated. It is not a method by which a disappointed party to proceedings can get a second bite of the cherry.
6. Reconsideration is not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced, which was available before.
7. A tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases 'fairly and justly' in accordance with Rule 3.
8. In considering the application regard needs to be given to not only the interests of the party seeking the reconsideration, but also to the interests of other parties to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
9. I do not consider that the various matters referred to in the Reconsideration Application would, in accordance with the interests of justice, make it appropriate for there to be a detailed reconsideration of the Judgment.
10. I have reached this decision for the following reasons.
11. Having read the Claimant's 36 page application I consider that to a large extent she is seeking to re-litigate matters which have already been considered, and in respect of which the Tribunal has evaluated the evidence, and to the extent to which it is relevant, made findings in the Judgement.
12. Nevertheless, I make the following observations regarding matters contained within the Reconsideration Application.
13. The Claimant makes numerous assertions of serious misconduct, manipulation of documents, dishonesty and perjury by the Respondent and its legal representatives. These constitute serious allegations and whilst the Tribunal took account of its perception of the credibility of the witnesses, where necessary, in reaching its findings, it would not be appropriate or necessary in a reconsideration application for the Tribunal to make further findings regarding these matters.
14. At paragraph 5 the Claimant appears to once again seek to reopen her application to amend, to include the contents of her letter dated 4 March 2023 as an additional protected disclosure, when that matter had already been determined at a previous case management hearing and in respect of which a further oral ruling was given at the commencement of the full merits hearing on 27 November 2024.

15. The Claimant has made detailed submissions regarding the authenticity of documentation disclosed by the Respondent, but it would neither be necessary nor appropriate for the hearing to be reopened to give further consideration to this issue when significant time was taken during the hearing considering and evaluating the credibility of the documentation, to the extent to which it was necessary to determine the issues before the Tribunal, and findings were made.
16. The claimant has in effect sought to re-argue her contentions that she made protected disclosures when the Tribunal has already considered, evaluated and determined this issue, and it would not be appropriate for further evidence to be introduced and the matter to be re-evaluated.
17. The Claimant has referred to multiple documents within her Addendum Bundle in the Reconsideration Application when she had the opportunity during the hearing to refer to these documents in her evidence in chief or in the cross examination of the Respondent's witnesses, and the extent to which this was not done it would not now be appropriate for the Tribunal to further consider such documentation.
18. In relation to paragraph 92 of the Judgment this was not strictly necessary given that the Tribunal had concluded that the Claimant had not made protected disclosures, but was included for completeness based on the Tribunal's evaluation of the evidence, and it would not be appropriate to reconsider this.
19. The Claimant has referred to arguments relating to claims which were not brought and therefore outside the remit of the Tribunal and the Judgment, for example, a contention that the Respondent should have made reasonable adjustments account on account of her health issues. Further, the Claimant contends, notwithstanding that she did not have 2 years' continuity of employment, that her dismissal was unfair under section 98 (4) of the Employment Rights Act 1996. She alleges in paragraph 73 that the Respondent has breached multiple legal obligations notwithstanding that the legislation in question was not relied on during the hearing. Further, at paragraph 108 the Claimant makes an allegation of racial prejudice against the Respondent which was not part of her claim.
20. In relation to paragraph 93 the reference to whether the Respondent can produce any evidence of the written complaints is consistent with the Tribunal's interpretation that the Respondent had a contractual entitlement to a make deduction from her wages (see paragraph 102 of the Judgement) and it would not be appropriate to reconsider this.
21. At paragraph 114 the Claimant seeks permission to introduce additional evidence i.e. her diary. This application should have been made significantly in advance of the hearing, or at the very latest during the hearing, and it would not be appropriate for it now to be introduced given the Tribunal has already promulgated the Judgement.
22. The Claimant's applications for costs and aggravated damages are not appropriately included in a reconsideration application.

23. At paragraph 121 the Claimant appears to be seeking to make an appeal to the EAT which has incorrectly been included in the Reconsideration Application.
24. In the circumstances I consider there is no reasonable prospect of the Judgment being varied or revoked and it is therefore unnecessary to seek the Respondent's response to the Reconsideration Application and nor is it necessary to seek the parties' views on whether it can be determined without a hearing.

**Employment Judge Nicolle**

**5 February 2025**

Sent to the parties on:

12 February 2025

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For the Tribunal:

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