# EMPLOYMENT TRIBUNALS

**Claimant:** Miss A Evans

**Respondent:** North Wales Fire and Rescue Service

# JUDGMENT

The Claimant's application dated 17 January 2025 for reconsideration of the judgment sent to the parties on 10 December 2024 is refused.

# REASONS

1. The Claimant presented a claim against the Respondent on 23 April 2024. She brought complaints of race and sex discrimination. The claim was listed for a Preliminary Hearing on 25 November 2024 to consider whether it was brought in time.

2. For the reasons given orally at the conclusion of that hearing, the Tribunal concluded that claim was presented outside the applicable time limit, and that the Tribunal consequently did not have jurisdiction to consider it. The judgment was dated 25 November 2024, and was sent to the parties on 10 December 2024. No written reasons have been requested.

3. On 17 January 2025, the Claimant emailed the Tribunal indicating that she wanted to appeal against the decision. She attached a copy of a Notice of Appeal form dated 16 January 2025, and a handwritten note explaining the basis of her appeal. The basis of her appeal was, in essence, that she had been given incorrect advice by her Trade Union regarding the time limits for bringing a claim.

4. On 8 February 2025 she sent a further email to the Tribunal attaching two emails from a Duncan Stewart-Ball, the Regional Secretary of the Fire Brigades Union. The first email was dated 7 March 2024. In that email, Mr Stewart-Ball informed the Claimant that she had to contact ACAS by 11 March 2024 or she would miss the relevant deadline. The second email was dated 18 March 2024. In that email. Mr Stewart-Ball informed the Claimant

that as she had completed early conciliation, she would need to complete and submit the form ET1. It did not refer to a deadline for doing so.

5. The Tribunal does not hear appeals against its own decisions. I have therefore treated the Claimant's emails, taken together, as a request for reconsideration of my judgment.

6. Rule 68 of the Employment Tribunal Rules of Procedure provides that the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a decision where it is necessary in the interests of justice to do so. On reconsideration, the decision may be confirmed, varied or revoked.

7. Rule 69 provides that an application for reconsideration under Rule 68 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.

8. Rule 6 deals with non-compliance. It provides that in the case of non-compliance with the Rules, the Tribunal may take such action as it considers just, which may include waiving or varying the requirement.

9. The process by which the Tribunal considers an application for reconsideration is set out in Rule 70. Where the Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Otherwise, the Tribunal shall send a notice to the parties setting out a time limit for any response to the application by the other parties, and seeking the views of the parties on whether the application can be determined without a hearing.

10. The Rules give the Tribunal a broad discretion to determine whether reconsideration of a decision is appropriate. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of *Liddington v 2Gether NHS Foundation Trust* UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows:

> "34. […] a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration.
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> 35. Where […] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected

on appeal and not through the back door by way of a reconsideration application."

11. The Claimant's application was not received within the relevant time limit. She has given no explanation for why the application was presented late (save that it is apparent that she may have confused the process of making an appeal to the Employment Appeal Tribunal, with the process of applying to the Tribunal for reconsideration). On that basis alone, I consider that the application must fail.

12. In any event:

    a. Firstly, the Claimant has given no explanation why she was unable to produce the emails from Mr Stewart-Ball prior to the hearing on 25 November 2024. A request for reconsideration is not a second bite of the cherry. That is a powerful factor in favour of refusing the application.
    b. Secondly, and more importantly, the Claimant's application appears to misunderstand the findings made by the Tribunal. The basis of the Claimant's application is that she was given incorrect advice regarding time limits by her Trade Union. The Tribunal found that the Claimant had not been given any advice on time limits by her Union prior to the primary time limit expiring. The Tribunal further found that when she was eventually given advice regarding time limits, that advice was incorrect. So the additional evidence on which the Claimant bases her application for reconsideration could not possibly have changed the conclusion the Tribunal reached, because it would (at most) simply have cemented the factual findings the Tribunal had already made.

13. So bearing in mind the importance of finality in litigation and the interests of both parties, even if the application had been made in time I would in any event not have been satisfied that there was any reasonable prospect of the Judgment or any part of it being varied or revoked. The application for reconsideration is therefore refused.

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Employment Judge Leith

Date 25 February 2025

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE