



EMPLOYMENT TRIBUNALS

Claimant: G Pearson

Respondents: 1. For Everyone Group Limited
2. OEM Appliances Limited

JUDGMENT ON A RECONSIDERATION

The claimant's application, dated 18 December 2024, for reconsideration of the Judgment dismissing the first respondent from the proceedings, which was sent to the parties on 5 December 2024, is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. I have considered the claimant's application for reconsideration of the Judgment. The application was emailed by the claimant and received by the Tribunal on 18 December 2024. It is brief and consists of a contention that, "in light of the validity of the settlement agreement issue raised by the Judge and for completeness, we would ask that the Judgment is reconsidered and the dismissal is stated to be 'without prejudice to the claimant's right to pursue a claim of breach of contract in the civil courts'.
2. On 19 December 2024, the respondents sent a lengthy email objecting to the application.
3. I have taken the contents of the claimant's application and the objections raised by the respondents into account.

Rules of Procedure

4. Rule 70(2) of the 2024 Rules of Procedure empowers me to refuse the application without convening a reconsideration hearing if I consider there is no reasonable prospect of the original decision being varied or revoked.
5. The test is whether it is necessary in the interests of justice to reconsider the Judgment (rule 68). Broadly, it is not in the interests of justice to allow a party to reopen matters heard and decided, unless there are special circumstances, such as a procedural mishap depriving a party of a chance to put their case or where new evidence comes to light that could not reasonably have been brought to the original hearing and which could have a material bearing on the outcome.
6. Achieving finality in litigation is part of a fair and just adjudication. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v Burton and anor [2016] EWCA Civ 714. It has also been the subject of comment from the then President of the Employment Appeal Tribunal in Liddington v 2Gether NHS Foundation Trust EAT/0002/16 (paragraph 34) in the following terms:

“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 by 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.”

7. Rule 51 provides that where part of a claim has been withdrawn, the Tribunal shall issue a judgment dismissing it unless the claimant has expressed, at the time of withdrawal, a wish to reserve the right to bring such a further claim against the respondent and the Tribunal is satisfied that there would be legitimate reason for doing so.

The application

8. In his claim presented on 8 May 2024, the claimant named 2 respondents to complaints of sex discrimination, notice pay and unpaid expenses. The claim was accompanied by particulars of claim which said, in paragraph 1, that the actual employer of the claimant was unclear and that the 2 respondents had been named so as to protect the claimant's interests. It

was stated that the claimant accepted that one of the respondents would be removed from the proceedings once the issue had been clarified.

9. At a case management preliminary hearing on 28 November 2024, before me, the identity of the claimant's employer was discussed. The claimant's representative indicated that it was accepted that the second respondent was the claimant's employer at the material time and so the first respondent should be removed. I understood that the claimant was in effect withdrawing the claim against the first respondent. I therefore explained that I would issue a judgment dismissing the first respondent from the proceedings. I recorded the matter in my case management orders sent to the parties on 5 December 2024, paragraph 5. The judgment dismissing the first respondent was also issued and sent to the parties on 5 December 2024.
10. The claimant has had legal representation throughout these proceedings and at the case management preliminary hearing. At no time, during the preliminary hearing did the claimant's representative raise any objection to the first respondent being dismissed from the proceedings.
11. It appears that the application is presented in hindsight, seeking to reargue the matter in a different way because the claimant may wish to pursue the first respondent elsewhere for breach of contract, about a disputed settlement agreement. I consider it is not in the interests of justice to reopen this matter or to amend the judgment as requested or at all, having regard to the principle of finality in litigation.
12. Nevertheless, it should be noted that a complaint of breach of contract in the Employment Tribunal can only be brought against a claimant's employer and for matters arising or outstanding on the termination of employment – see the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994, section 4(c). Therefore, the Tribunal did not have jurisdiction for the claimant to pursue the first respondent, which was not his employer, in the Tribunal for breach of contract in relation to a matter arising after his employment had ended.
13. In addition, the allegation of breach of contract pursued in these proceedings is pleaded as being one of wrongful dismissal, for notice pay and unpaid expenses. A claim of breach of contract alleging breach of a settlement agreement is not so pleaded and in any event falls outside of the Tribunal's jurisdiction. The respondents make the point in their objections that there is, on their view, no binding settlement agreement between the parties and that, if there was, it would affect and nullify the Tribunal's jurisdiction to hear these proceedings. No such settlement agreement has been produced by either party.

Conclusion

14. Having considered the claimant's application and the points made by the respondent, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The application for reconsideration is refused.

Employment Judge Batten
Date: 4 February 2025

JUDGMENT SENT TO THE PARTIES ON:
Date: 14 February 2025

FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2402747/2024**

Name of case: **Mr G Pearson** v **1. OEM Appliances Limited**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 14 February 2025

the calculation day in this case is: 15 February 2025

the stipulated rate of interest is: **8% per annum**.

Paul Guilfoyle
For the Employment Tribunal Office

GUIDANCE NOTE

1. There is more information about Tribunal judgments here, which you should read with this guidance note:
www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426

If you do not have access to the internet, you can ask for a paper copy by telephoning the Tribunal office dealing with the claim.

2. The payment of interest on Employment Tribunal awards is governed by The Employment Tribunals (Interest) Order 1990. Interest is payable on Employment Tribunal awards if they remain wholly or partly unpaid more than 14 days after the **relevant decision day**. Sums in the award that represent costs or expenses are excluded. Interest starts to accrue from the day immediately after the **relevant decision day**, which is called **the calculation day**.
3. The date of the **relevant decision day** in your case is set out in the Notice. If the judgment is paid in full by that date, no interest will be payable. If the judgment is not paid in full by that date, interest will start to accrue from the next day.
4. Requesting written reasons after you have received a written judgment does **not** change the date of the **relevant decision day**.
5. Interest will be calculated as simple interest accruing from day to day on any part of the sum of money awarded by the Tribunal that remains unpaid.
6. If the person paying the Tribunal award is required to pay part of it to a public authority by way of tax or National Insurance, no interest is payable on that part.
7. If the Secretary of State has claimed any part of the sum awarded by the Tribunal in a recoupment notice, no interest is payable on that part.
8. If the sum awarded is varied, either because the Tribunal reconsiders its own judgment, or following an appeal to the Employment Appeal Tribunal

or a higher court, interest will still be payable from **the calculation day** but it will be payable on the new sum not the sum originally awarded.

9. The online information explains how Employment Tribunal awards are enforced. The interest element of an award is enforced in the same way.