



# EMPLOYMENT TRIBUNALS

## Claimant

Mr E Kaboungo

v

## Respondent

Polypipe Limited

**Tribunal:** Sheffield

**Dated:** 13 March 2025

**Before:** Employment Judge James

## RECONSIDERATION JUDGMENT

(1) The application for Reconsideration of the Judgment dated 17 February 2025, sent to the parties the same day (Employment Tribunals Rules of Procedure 2013 – Rules 68 to 71) is refused for the reasons set out below.

## REASONS

1. The strike out judgment dated 17 February 2025 was sent to the parties on the same day; the day before the final hearing was due to start. In an email dated 20 February 2025, the claimant made a request for reconsideration of the judgment. That was copied to the respondent, who was asked to comment on it by 14 March 2025. A reply was received on 10 March 2025.

### **The Law**

2. Rules 68 to 71 of the Employment Tribunal Procedure Rules 2024 provide as follows:

### **RECONSIDERATION OF JUDGMENTS**

#### ***Principles***

**68.** (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.*

### **Application for reconsideration**

**69.** *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.*

### **Process for reconsideration**

**70.** *(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.*

*(3) If the application has not been refused under paragraph (2), the Tribunal must send a notice to the parties specifying the period by which any written representations in respect of the application must be received by the Tribunal, and seeking the views of the parties on whether the application can be determined without a hearing. The notice may also set out the Tribunal's provisional views on the application.*

*(4) If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.*

*(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application.*

### **Reconsideration by the Tribunal on its own initiative**

**71.** *Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).*

3. Whilst the discretion under the rules is wide under the 'interests of justice' test, it is not boundless; it must be exercised judicially and with regard, not just to the interests of the party seeking the review, but also to the interests of the other party and to the public interest requirement that there should, as far as possible, be finality of litigation - Flint v Eastern Electricity Board [1975] ICR 395 at 401, per Phillips J, at 404.

## **Decision**

4. The reason for the request by the claimant is that he says that he was blocked from sending email to Ms Turner, of Pinsent Masons and had to send some documents by post. He provided as evidence of that, a screenshot showing that an email sent to Pinsent Masons had been blocked. As those solicitors point out however, that was because the email address was mistyped - the claimant used the word tuner instead of Turner. Since then, the claimant has been able to email Ms Turner, using the correct email address.
5. In any event, the terms of the unless order were that the claimant was to send his witness statement to the Tribunal, as well as to the respondent representative. The claimant did not do so.
6. The application therefore has no reasonable prospect of success and it is rejected for that reason.

## **Conclusion**

7. For all of the above reasons, the reconsideration application is rejected because under Rule 70(2) because it has no reasonable prospect of success.

Employment Judge James

Dated 13 March 2025

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