



EMPLOYMENT TRIBUNALS

Claimant: Mr Daniel Hamill

Respondent: Carbon Rewind Ltd

RECONSIDERATION JUDGMENT

The Claimant's application dated 3 February 2025 for reconsideration of the judgment given orally on 31 January 2025, sent to the parties on 21 February 2025 is refused.

REASONS

1. I have undertaken preliminary consideration of the Claimant's application for reconsideration. The Claimant application in his email dated 3 February 2025 to the Employment Tribunal but not to the Respondent appears to be based upon an argument that the Claimant mislabelled his claim whistleblowing when it should have been labelled health and safety negligence. The Claimant's application came within 14 days of the judgment but before the judgment and written reasons were sent to the parties on 21 February 2025.

The Law

2. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 68 of The Employment Tribunal Procedure Rules 2024 ('ETPR')).
3. Rule 70(1) ETPR empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
4. The importance of finality was expressed succinctly by Mrs Justice Simler sitting as President in the EAT decision of **Liddington v 2Gether NHS Foundation Trust EAT/0002/16**. Simler P said in paragraph 34 that:

“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.”

5. In common with all powers under the ETPR, preliminary consideration under rule 70(1) must be conducted in accordance with the overriding objective as set out in rule 3, namely, to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

The Application

6. A claim for health and safety negligence is not a claim that the Employment Tribunal has jurisdiction to hear. The Employment Tribunals do not hear negligence claims. In any event such an argument was not put before the Employment Tribunal and the Claimant therefore already had an opportunity to argue then what he wants to argue now.
7. The basis of the Claimant's application is an attempt to re-open the case to argue it from a different perspective, in that sense it represents a “second bite at the cherry” which undermines the principle of finality. Such attempts have a reasonable prospect of resulting in the decision being varied or revoked only if the Tribunal has missed something important, or if there is new evidence available which could not reasonably have been put forward at the hearing. A Tribunal will not reconsider just because the Claimant wishes it had gone in his favour.

Conclusion

8. Having considered all the points made by the Claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The matters raised in the application were matters that could have been raised at the hearing, some of which were, but from a whistleblowing perspective and were considered. I have not dealt with any procedural flaws of the Claimant's application namely that the application was not sent to the Respondent. In any event the application for reconsideration is refused.

Approved by:

Employment Judge Young

DATED 6 March 2025

Case No: 3303484/2024

JUDGMENT AND REASONS SENT TO THE PARTIES ON

21/03/2025

FOR THE TRIBUNAL OFFICE