



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss M Miller

**Respondent:** Greggs plc

**Heard on the papers:** at London South                      **On:** 2 February 2023

**Before:** Employment Judge C H O'Rourke

## **(Variance of Decision of 2 February 2023 (below))**

This decision is varied to the extent set out below, following the Claimant's appeals to the Employment Appeal Tribunal, which were allowed by consent, by Order of His Honour Judge Taylor, of 12 February 2025.

*'UPON the Respondent by their solicitors and / or Counsel having withdrawn all allegations of dishonesty, following discussions with the Appellant's Counsel in relation to IT evidence and agreed that the findings by the Tribunal in relation to the same are wrong.*

...

*All findings as to the Appellant's dishonesty made by the Tribunal in its Rule 38(2) Judgment dated 10 January 2023 (and all subsequent decisions) were wrongly made.'*

## **DECISION ON APPLICATION FOR RECONSIDERATION**

The Claimant's application of 31 January 2022, under Rule 72 of the Tribunal's Rules of Procedure 2013, for reconsideration of the Tribunal's Judgment of 10 January 2023 is refused.

# REASONS

1. The Claimant has applied for reconsideration of the Tribunal's Rule 38 Judgment which refused to set aside an order which, in turn, dismissed her claim for failure to comply with a previous 'unless' order.
2. Subject to Rule 72(1) the Tribunal considers that there is no reasonable prospect of the Rule 38 Judgment being revoked, for, briefly, the following reasons:
  - a. While the Claimant has asserted that the basis of her application is that it *'is based on new evidence that has come to light'* since her Rule 38 application for relief from sanctions, there is no 'new evidence' in her thirteen-page submission, merely assertions and submissions on her part as to why she disagrees with the Tribunal's findings.
  - b. I consider that taking into account the (recent) history of this matter (as follows), the Claimant has had ample opportunity to advance her case and the Tribunal has given that case more than sufficient consideration, but that she now simply seeks to re-litigate it:
    - i. The Respondent had applied, on several occasions, for strike-out of the Claimant's claim, the most-recent of those applications heard by me, at the final case management hearing on 13 September 2022, at which all of these issues were canvassed, and the Claimant was given a final chance to comply with Tribunal orders, subject to an 'unless' order.
    - ii. Subsequently, following further submissions from the Respondent as to non-compliance with that Order, her claim was ordered to be dismissed on 9 November 2022.
    - iii. She applied on 23 November 2022, subject to Rule 38, for that order to be set aside, providing submissions in support, as well as various documents and the Respondent provided further detailed counter-submissions.
    - iv. I gave judgment on that application on 10 January 2023, with eleven pages of detailed reasons.
3. I don't consider that any of the grounds raised by the Claimant in support of her application for reconsideration render it in the interests of justice to revoke the original Judgment. As stated, the Claimant has been given ample opportunity to advance her case and now simply disagrees with the outcome.
4. In **Stevenson v Golden Wonder Ltd [1977] IRLR 474, EAT**, Lord McDonald said of the old review provisions that they were *'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'*.

5. I don't consider therefore that it is in the interests of justice to reconsider the Judgment, while I note also that it is in the public interest that there should be finality in litigation, and that the interests of justice apply to both sides.
6. Conclusion. The Claimant's application is therefore refused.

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Employment Judge O'Rourke

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Date: 2 February 2023

Re-dated 7 April 2025

Judgment sent to the parties on

Date: 08 April 2025