



EMPLOYMENT TRIBUNALS

Claimant: Mr D Hughes

Respondent: Alten Ltd

JUDGMENT - RECONSIDERATION

The claimant's application dated 1 April 2025, 2 April 2025 (three emails), 3 April 2025 and 13 April 2025 for reconsideration of the judgment sent to the parties on 14 April 2025 is refused (the claimant having applied for reconsideration after hearing the oral judgment and reasons but before receiving the written Judgment).

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, for the reasons set out below.
2. Rule 68 of the Employment Tribunal Procedure Rules 2024 ("the ET Rules") provides that:
 - (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.*
3. Whilst under Rule 69 of the ET Rules the application for reconsideration should be made within 14 days of the date on which the written judgment and/or reasons were sent to the parties, and in this case the application

was made before that date, I have nevertheless considered it.

4. The process for reconsideration is set out at Rule 70 of the ET Rules, and provides that:
 - (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.*
5. In considering whether to grant the reconsideration, the Tribunal should have regard to the interests of both parties, along with the public interest in the finality of litigation (**Outasight VB Limited v Brown 2015 ICR D11 EAT**).
6. The claimant's application for reconsideration is spread over a number of emails sent between 1 April 2025 and 13 April 2025. The core grounds for his application are:
 - a. That he had proven disability;
 - b. That the medical journals he provided defined his condition as a disability;
 - c. That the Tribunal created a "spectrum" of disability and rejected his case on the basis that his disability was "mild" which was an error of law;
 - d. That the respondent had to present medical experts which it had not done and that the burden of proof lay with the respondent at that stage;
 - e. That a job offer was made to the claimant, that others received an offer within 4 weeks and that saying the client pulled out was dishonest on the respondent's part;
 - f. That there was a failure to make reasonable adjustments;

- g. That the gap between his teeth made him repulsive to look at;
 - h. That by Mr D'Souza not giving evidence he was denied the right to a fair trial; and
 - i. That on 22 April 2025 the claimant attended an application to join a gym and sprayed saliva whilst talking.
- 7. The Tribunal's clear finding was that the claimant had not shown that he met definition of disability under section 6 of the Equality Act 2010 at the relevant time. Whilst the Tribunal had regard to the medical evidence provided by the claimant, as explained to the claimant at the outset of the hearing the question of disability is framed by reference to the impact of the condition on the claimant individually and the fact that the word "disability" appears in an online publication does not mean that the claimant is automatically disabled. This was something that was specifically considered by the Tribunal and there is no reasonable prospect of the original decision being revoked.
- 8. The respondent was not required to provide its own medical experts and the burden of proof did not lie with the respondent to show that the claimant was not disabled. The claimant could have requested his own medical expert but did not do so, nor did he provide any medical evidence on the impact on him save what was in his impact statement and the photos provided.
- 9. In relation to the claimant's position that the Tribunal created a "spectrum" of disability, this was not the case. The Tribunal did not conclude that the claimant had a "mild" disability, it concluded that the claimant's tooth loss did not have a substantial adverse effect on his ability to carry out day to day activities, which is the test under the Equality Act 2010.
- 10. Insofar as the claimant refers to being repulsive to look at, whilst not raised at the hearing by either party, I have considered whether the claimant would have any reasonable prospect of showing that the tooth loss amounted to severe disfigurement under Paragraph 3 of Schedule 1 of the Equality Act 2010. I do not consider that he would have any reasonable prospect of doing so.
- 11. The Tribunal made clear findings of fact in relation to whether a job offer was made to the claimant, and in relation to the reasons why the job application was not progressed to offer stage. In relation to the claimant's assertion that others had job offers within four weeks, this relates to different jobs. Clear conclusions were also reached in relation to the alleged failure to make reasonable adjustments (separately to the conclusions as to whether the claimant was disabled in any case).
- 12. The Tribunal accepted the respondent's position that it was not able to contact Mr D'Souza to obtain evidence from him. Mr D'Souza's absence did not prevent him from having a fair trial and the claimant himself did not seek a witness order or make any representations about how his attendance could or should be secured.
- 13. In relation to the claimant's comment about his gym application, it is not clear when this happened as he states it was on 22 April 2025 which would postdate the email in which he raised the issue (the email being

dated 13 April 2025). In any case this was not something that was referenced during the hearing even if it had occurred before the hearing (which is not clear) and therefore the Tribunal could not reasonably have been expected to consider it. In any case, this incident would not have any reasonable prospect of varying the Tribunal's decision.

14. For all the reasons set out above, the application for reconsideration fails.

**Approved by
Employment Judge Edmonds
23 April 2025**