



EMPLOYMENT TRIBUNALS

Claimant: Amy Austin-Roberts

Respondent: Circle Health Group Ltd

UPON APPLICATION made by email dated 29 May 2025 to reconsider the judgment dated 5 May 2025 under rule 70 of the Employment Tribunals Procedure Rules 2024, and without a hearing,

JUDGMENT

The Judgment of 5 May 2025 is confirmed.

REASONS

Law

1. Rule 68 of the 2024 Rules states:

“(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”

2. Rule 70 of the 2024 Rules states:

“(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."

3. Rule 71 provides that an application for reconsideration under Rule 70 must be made in writing (and copied to all other parties) within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.

4. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P, as she then was, in the case of **Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA**. Paragraphs 34 and 35 provide as follows:

"34. [...] 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 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. Tribunals have a wide discretion whether or not to order reconsideration.

24. Where [...] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application."

5. Finally, Rule 3 of the 2024 Rules states:

"(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

*(a)ensuring that the parties are on an equal footing,
(b)dealing with cases in ways which are proportionate to the complexity and importance of the issues,
(c)avoiding unnecessary formality and seeking flexibility in the proceedings, (d)avoiding delay, so far as compatible with proper consideration of the issues, and
(e)saving expense.*

*(3) The Tribunal must seek to give effect to the overriding objective when it— (a)exercises any power under these Rules, or
(b)interprets any rule or practice direction.”*

Application

6. The claimant's application was received within the relevant time limit in accordance with Rule 71. The application was also copied to the respondent.
7. The application for reconsideration appears to be made on the following grounds, namely (i) several inconsistencies and incorrect assumptions/interpretations of the evidence presented; (ii) evidence has emerged since the hearing; (iii) that the respondent did not hear evidence from Ms Crump; (iv) that the Tribunal preferred the evidence of Mrs Dorkes over that of the claimant.

Conclusion

8. The claimant is a disappointed litigant and is seeking to have a further attempt to re-argue her position having had a full opportunity at the final hearing. It is not the purpose of reconsideration to allow a party the opportunity to rehearse the arguments that have already been made and explored. It is a fundamental requirement of litigation there is certainty and finality.
9. If there was an error of law, this is a matter for appeal and not reconsideration. The claimant has not argued or identified an error of law.
10. This application does not raise any new information or which he could not have raised at the hearing which would make reconsideration necessary in the interests of justice. There appears to be no good reason why the evidence that the claimant says has recently emerged could not have been presented to the Tribunal at the final hearing. These are emails and messages which have been in the claimant's possession since July 2023.
11. In relation to Ms Crump, the claimant cannot choose which witnesses the respondent calls. In addition, there is no reason why the claimant could not have asked Ms Crump to provide a witness statement.
12. In the circumstances the application for reconsideration is rejected on the basis there is no reasonable prospect of the judgment being varied or revoked. Accordingly, the application for reconsideration is therefore refused.

13. Finally, although not put as a ground for reconsideration, the claimant requests that the Tribunal request disclosure of Suzanne Joynes's timesheets of the week commencing 19 June 2023. If the claimant considered that such timesheets were relevant, then she had ample opportunity to request disclosure of those documents from the respondent prior to the final hearing. No further orders in relation to disclosure are appropriate or necessary.

Approved by:

Employment Judge McTigue

13 June 2025

Sent to the parties on

...24 June 2025.....

For the Employment Tribunal

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