EMPLOYMENT TRIBUNALS

Claimant: Ms Haile

Respondent: Co-operative Group Limited

RECONSIDERATION

The claimant's second application for a reconsideration of the judgment sent to the parties on 12 February 2025, which the claimant emailed to the Tribunal on 2 June 2025, and which she subsequently amended by her further email of 4 June 2025, is refused.

REASONS

Background

1. The judgment of the Tribunal in relation to remedy was sent to the parties on 12 February 2025 ("the Judgment"). The claimant made an application for the Judgment to be reconsidered and that application was rejected by a decision dated 26 March 2025, which was sent to the parties on 19 May 2025.

2. The claimant then made a further application for a reconsideration of the Judgment which she emailed to the Tribunal on 2 June 2025, and which she subsequently amended by her further email of 4 June 2025 ("the second application").

3. The second application (as amended) is a somewhat confused document. However, in broad terms it is an application setting out further reasons why in the claimant's opinion the Tribunal should reconsider the Judgment because in the claimant's view various of the Tribunal's conclusions in the Judgment were wrong.

Why the second application is refused

4. Rule 69 of The Employment Tribunal Procedure Rules 2024 provides that:

   … 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.

5. The Judgment (with reasons) was sent to the parties on 12 February 2025 and so the deadline for any application for a reconsideration was 26 February 2025. The claimant did of course make an application for a reconsideration before that deadline, on 25 February 2025.

6. The second application has therefore been made more than three months after the deadline provided for by Rule 69. The Tribunal has a discretion to grant an extension of time outside the 14 day time limit under Rule 5(7). However, the Tribunal has decided not to exercise its discretion in this way because:

   6.1. There is nothing in the second application which could not have been included in the first application;

   6.2. The claimant has provided no explanation for why the second application is made more than three months after the 14 day time limit.

7. Further, if the Tribunal had extended time, the application would have been refused under Rule 70(2) on a preliminary consideration on the ground that there was no reasonable prospect of the original judgment being varied or revoked. The claimant is referred to the nature of the Tribunal's task on an application for a reconsideration as set out in its decision in relation to her first reconsideration application. The Tribunal would have concluded that there was no reasonable prospect of the original judgment being varied or revoked on the ground that this was necessary in the interest of justice because the claimant has not identified in the second application any matter which could have resulted in such a decision.

8. In Ebury Partners UK Limited v Acton Davis [2023] EAT 40, having set out what is now Rule 68, HHJ Shanks summed up the Tribunal's power to reconsider a judgment as follows:

   The employment tribunal can therefore only reconsider a decision if it is necessary to do so 'in the interests of justice.' A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a 'second bite of the cherry' and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT.

9. The claimant has appealed against the Judgment to the Employment Appeal Tribunal. That is now the appropriate venue for her to pursue her disagreement with the Tribunal's decision as set out in the Judgment.

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Employment Judge Evans
Approved on 15 July 2025