



EMPLOYMENT TRIBUNALS

Claimant: Mrs Jasbir Seahra

Respondent: Dormer Wells Learning Trust

UPON APPLICATION made by letter dated 20 April 2025 to reconsider the judgment dated 16 November 2024 under rule 69 of the Employment Tribunal Procedure Rules 2024, and without a hearing.

RECONSIDERATION JUDGMENT

The Claimant's claim is reinstated. The claim is not struck out.

REASONS

Introduction

1. I have undertaken consideration of the Claimant's application for reconsideration of the judgment striking out her claims and the attached evidence (letter from Bereft dated 28 November 2024 and Patient ePCR advice sheets and a mobile phone bill). I have also considered the Respondent's objections dated 23 May 2025 as well as the Claimant's response to those objections dated 26 May 2025. I also gave the parties an additional 7 days to provide any further representations, having written to them on 23 June 2025 to let them know that I would make a decision without a hearing.
2. References in square brackets are a reference to paragraph numbers from the reasons promulgated on 7 April 2025.

Application

3. The crux of the Claimant's application is that, in the Claimant's words on 13 September 2024 just 15 minutes before the hearing, the Claimant received a call from her brother informing her that her mother was unresponsive, and paramedics were attending to her. The Claimant was deeply distressed and unable to focus. Although she did not mention this during the hearing to

avoid appearing to delay proceedings, it significantly affected her ability to concentrate and participate. The Claimant attached ambulance paramedic notes and her brother's phone bill statement to show the call to the Claimant's mobile phone at approximately 09:43 on 13 September 2024.

The Law

4. 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 70 of the 2013 Rules of Tribunal Procedure).
5. I made a preliminary consideration under rule 70(1) of the Employment Tribunal Procedure Rules 2024 that there was a reasonable prospect of the original decision being varied or revoked.
6. In Outasight VB Ltd v Brown [2015] ICR D11, EAT, the EAT confirmed that the law regarding the reconsideration of a judgment in light of new evidence did not change with the introduction of the 2013 Tribunal Rules. The interests of justice test includes the conditions set out in Ladd v Marshall [1954] 3 ALL ER 745. in summary: 1) it must be shown that the evidence could not have been obtained with reasonable diligence for use at the trial, 2) the evidence must be such that, if given, it would probably have an important influence on the result of the case, 3) the evidence must be such as is presumably to be believed, or in other words, it must be apparently credible, although it need not be incontrovertible.
7. The EAT's decision in Wileman v Minilec Engineering Ltd [1988] IRLR 144 expands on the application of the Ladd v Marshall conditions. In Wileman, the EAT said that the evidence must not only be relevant, but it must be probable that it would have had an important influence on the case as Tribunal hearings are designed to be speedy, informal, and decisive. The new evidence doesn't need to be shown to be likely to be decisive. The question for the tribunal on reconsideration is *"in the light of what we know about this case, has it been shown to us that the evidence is relevant and probative, and likely to have an important influence on the result of the case?"* (paragraph 15 of Wileman v Minilec)
8. The approach to be taken to applications for reconsideration was considered in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. In paragraph 34 of that decision, Simler P stated 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."*

9. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v Burton and anor [2016] EWCA Civ 714 where Elias LJ said that: *“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review.”*

Conclusions

10. As is the case with all powers under the 2013 Tribunal Rules of Procedure, any preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, 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.
11. It appears to the Employment Tribunal that in those circumstances the Claimant was not in a position to fully argue before the Employment Tribunal the reasons why her claim should not be struck out and therefore it must be in the interests of justice that the Claim is reinstated.
12. The Claimant says that she has found a solicitor but has not yet instructed them because she was waiting for the claim to be reinstated. The Claimant also explained that the reason she had not asked her family members to help her before was that they were also dealing with the grief of their father. The Claimant has now been undergoing bereavement counselling. It is in those circumstances, I consider the circumstances have changed and that the Claimant would be in a position to comply with orders. The claim will be listed for a case management preliminary hearing with a view to listing the matter for a full merits hearing.

Approved by

Employment Judge Young
Dated 25 July 2025

JUDGMENT SENT TO THE PARTIES ON
31 July 2025

FOR THE TRIBUNAL OFFICE