



EMPLOYMENT TRIBUNALS

Claimant: Florentin Moraru

Respondent: Boohoo.com UK Limited

JUDGMENT ON RECONSIDERATION

The claimant's application dated 18 July 2025 for reconsideration of the judgment sent to the parties on 3 July 2025 is refused pursuant to Rule 70(2) of The Employment Tribunal Procedure Rules 2024. There is no reasonable prospect of the judgment being varied or revoked.

REASONS

Background

1. In a judgment dated 23 June 2025 and sent to the parties on 3 July 2025 ("the Judgment"), the Tribunal upheld the claimant's complaints of unfair dismissal and wrongful dismissal, and dismissed his complaint of direct race discrimination.
2. On 18 July 2025 the claimant applied for reconsideration of the Judgment and for an extension of time to submit his application for reconsideration.
3. The grounds upon which the claimant seeks an extension of time are, in summary, that:
 1. He is a litigant in person and it was not reasonably possible for him to obtain professional guidance on the application or reconsideration within the 14 day time limit;
 2. He made genuine efforts to act promptly;
 3. The factual and legal complexity of the case contributed to the time required to prepare a legally sound application; and
 4. The interests of justice favour granting an extension.

4. The grounds upon which the claimant applies for reconsideration are, in summary, the following:
 1. The Tribunal misapplied the legal test for direct discrimination through a *“restrictive comparator analysis”* and failed to analyse *“the comparative context and the differential treatment compared to other colleagues who committed exactly the same act”* ;
 2. The Tribunal failed to address key pleaded claims;
 3. The Tribunal failed to consider aspects of indirect discrimination and victimisation *“although they were clearly invoked during the procedure”*; and
 4. The Tribunal tolerated *“Serious procedural deficiencies”* which prejudiced the claimant’s right to a fair trial;
5. Rule 68 of The Employment Tribunal Procedure Rules 2024 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.
6. (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.”
7. Rule 69 provides that, except where it is made in the course of a hearing, an application for reconsideration must be made in writing within 14 days of the date on which the judgment was sent to the parties. Rule 5(7) gives the Tribunal the power to extend time, stating that:

“The Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in the case of an extension) it has expired.”
8. Rule 70 sets out the process to be followed when reconsidering judgments and states as follows:

“(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."

9. The first stage therefore is for the Employment Judge to consider the application and decide whether there are reasonable prospects of the judgment being varied or revoked. If the Employment Judge considers that there are no reasonable prospects of the judgment being varied or revoked, then the application shall be refused. The decision at first stage is for an Employment Judge to take alone, irrespective of whether the judgment being challenged was taken with panel members or not.

10. The Senior President of Tribunals' Practice Direction on Panel composition in the Employment Tribunals and Employment Appeal Tribunal dated 29 October 2024 provides that:

"6. In respect of any other matter an Employment Tribunal is to consist of a judge. This includes consideration of whether a party's application for reconsideration discloses a reasonable prospect of a judgment being varied or revoked.

11. The same principle is reflected in paragraph 16 of the Presidential Guidance on Panel composition issued on 29 October 2024:

"There are two circumstances where post-hearing matters will always be decided by a judge alone –

16.1 In respect of applications for reconsideration, when deciding under rule 72(1) if such an application discloses a reasonable prospect of a judgment being varied or revoked and when deciding under rule 72(2) if a hearing in respect of that application is in the interests of justice..."

12. The reference to rule 72 is to the previous Employment Tribunal Rules of Procedure, and the correct reference to the current rules is to Rule 70 of The Employment Tribunal Procedure Rules 2024. The effect of the Practice Direction and Presidential Guidance is that the initial consideration of the application for

reconsideration under Rule 70 must be done by an Employment Judge alone, without members.

13. Before considering the application for reconsideration I have considered whether to extend time for the claimant to make the application, as it was presented one day late. I take account of the length of the delay, which is just one day, the fact that the claimant is a litigant in person, that English is not the claimant's first language, and that the claimant has made genuine efforts to act promptly. For these reasons I extend time and accept the claimant's application.
14. I have gone on to consider the claimant's application for reconsideration in accordance with Rule 70(2). In doing so, I have reminded myself that a judgment can only be reconsidered if it is in the interests of justice to do so.
15. When dealing with applications for reconsideration, the Employment Judge should take into account the following principles laid down by the higher courts:
 1. Tribunals have a broad discretion to decide whether reconsideration of a judgment is appropriate in the circumstances, but this discretion must be exercised judicially (***Outsight VB Ltd v Brown [2015] ICR D11 EAT***);
 2. There is an underlying public policy interest in the finality of litigation, and reconsiderations should therefore be the exception to the general rule that Employment Tribunal decisions should not be reopened and relitigated. Finality in litigation is central to the interests of justice (***Ebury Partners Ltd v Acton Davis 2023 EAT 40***);
 3. The reconsideration process is not designed to give a disappointed party a 'second bite at the cherry'. It is "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" (***Stevenson v Golden Wonder Ltd 1977 IRLR 474***);
 4. The Tribunal must seek to give effect to the overriding objective of dealing with cases fairly and justly, which includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding delay, so far as compatible with proper consideration of the issues, and saving expense; and
 5. The interests of both parties should be taken into account when deciding whether it is in the interests of justice to reconsider the judgment.
16. The claimant asserts that the Tribunal was wrong in the way it analysed the direct discrimination claim. The claimant had the opportunity at the final hearing to make representations in relation to the direct discrimination claim. If the claimant considers that there was an error of law in the Tribunal's judgment, the correct way to address this is through an appeal rather than by way of an application for reconsideration.

17. The claimant's assertion that the Tribunal failed to address key pleaded claims is misconceived. It was confirmed at the start of the hearing that the claims being brought were for unfair dismissal, wrongful dismissal, and direct race discrimination. The Tribunal made findings on each of those claims. The claimant refers in his reconsideration application to complaints of indirect discrimination, victimisation, "*Failure to Consider TUPE*" and "*Contractual Irregularities*". There were no such claims before the Tribunal.
18. The claimant raised procedural concerns about the way in which the respondent conducted the litigation, and these concerns were discussed at the start of the final hearing. The claimant was asked twice if he wanted the Tribunal to postpone the hearing, and on both occasions he told the Tribunal that he did not want a postponement, and preferred to go ahead with the hearing.
19. There is nothing in the claimant's application for reconsideration which causes me to consider that it is in the interests of justice to reconsider the judgment. The reconsideration application is therefore rejected under Rule 70(2) because it has no reasonable prospect of success.

Employment Judge Ayre
Date: 30 July 2025