



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Cretu

**Respondent:** DHL Services Limited

**Heard at:** London South via CVP **On:** 18 August 2025 (in chambers)

**Before:** Regional Employment Judge Khalil

## JUDGMENT ON RECONSIDERATION UNDER RULE 68 and 70

### Decision:

Pursuant to rule 68 and rule 70 of the Employment Tribunal Procedure Rules 2024, the claimant's application for reconsideration of the Judgment sent to the parties on 8 August 2023 is refused. The Judgment under Reconsideration is confirmed.

### Reasons

#### The application, appearances and documents

1. The Tribunal dealt with the claimant's application on the papers following the claimant's non-attendance at the Reconsideration Hearing on 24 June 2025 and in pursuance of the Orders made thereafter. The respondent was represented at that Hearing by Ms Clayton, Counsel.
2. The Tribunal had regard to a Bundle running to 113 pages and the claimant's written statement dated 8 July 2025 and the respondent's representations in response dated 22 July 2025.

#### Relevant Chronology & Findings of fact for this application

3. The claim for Unfair Dismissal and Unauthorized Deductions were dismissed because of a lack of jurisdiction by a Judgment with reasons sent to the parties on 8 August 2023 following a Preliminary Hearing.
4. The claimant's application for reconsideration of that Judgment dated 1 September was refused by the Tribunal's letter of 26 September 2023.
5. The claimant appealed the Judgment to the EAT on 19 September 2023. The appeal was rejected under the EAT siff by HHJ Auerbach on 1 March 2024.
6. The claimant requested a Rule 3(10) Hearing in the EAT on 2 April 2024.
7. On 13 March 2025, the claimant applied for Reconsideration afresh, asserting that new evidence became physically available to her on 12 March 2025 – when the claimant says her faulty mobile phone was repaired and she saw a screenshot confirming submission of her claim form on 7 November 2023. The claimant said it was not possible to present the evidence earlier.
8. A Screenshot was attached – presumably taken by the claimant at the time showing submission at 23:49 on 7 November 2023. This was in the Bundle at page 82 & 85.
9. The EAT postponed the claimant's 3(10) Hearing listed for 9 April 2025 pending determination of the claimant's Reconsideration application.
10. The Reconsideration hearing was fixed for 24 June 2025. The claimant's application was opposed by the respondent in writing (14 April).
11. The claimant did not attend the Reconsideration hearing due to childcare issues. As a result, Orders were made by the Tribunal as follows:

*“On or before 8 July 2025, the claimant must serve on the respondent with a copy to the , a signed statement, limited to 3 pages of A4, to provide the basis of her application based on new evidence she says could not have been obtained earlier. In particular, the claimant will need to address why she says she submitted her claim on 7 November 2022 when she had previously accepted that she had submitted her claim out of time after midnight on 8 November 2022. In addition, the claimant will need to explain whether she asserts she believed she had submitted her claim on 7 November 2022 at the time (and did she take a screenshot at the time) and if so, what steps she took to retrieve the information from her phone before 24 June 2024 (when she says she sought a repair of her phone) and what she did thereafter up to 12 March 2025.*

12. The claimant submitted a written statement dated 8 July 2025 and the respondent provided written representations on 22 July 2025. In the latter, the respondent also asserted prejudice a result of the delay and passage of time and the consequential impact on its ability to prepare its case, having relied on the finality of proceedings to date.
13. In the claimant's signed witness statement dated 30 June 2023 (before the Preliminary Hearing) , the claimant stated she had in fact submitted her claim form just after midnight on 8 November 2022.
14. The respondent has drawn the Tribunal's attention to a screenshot on 7 November 2022 which the claimant was able to produce (7 November 14:12) in relation to an application for the role of aviation officer.
15. On 22 August 2023, the claimant also wrote to the Tribunal seeking an extension of time to lodge her application for reconsideration on the basis that she had evidence which would support her application, which had not reached her by 22 August 2023.
16. In the claimant's application for Reconsideration dated 1 September 2023, the claimant blamed the HMCTS website for having technical issues causing the delay in the submission of her claim form.
17. In her statement dated 8 July 2025, the claimant confirmed her device used to submit her claim form, became faulty on 24 June 2024.
18. The claimant also said in that statement that she wanted to highlight that when she submitted correspondence to the EAT stating she had evidence of submitting the ET1 on time, she was not aware of the newly discovered evidence on 12 March 2025.
19. On 2 April 2024, the claimant stated, in her application for a Rule 3 (10) EAT Hearing, 'it was later found that I have evidence confirming that I have submitted the ET1 on time and I can submit evidence to the EAT upon request.' (page 69 of the Bundle).

### **Applicable Law**

20. Under Rule 68, 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.

21. Under 68 (2), a judgment under reconsideration may be confirmed, varied or revoked.
22. Under rule 70 (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.
23. Under Rule 70 (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 and under Rule 70 (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.

### **Conclusions and analysis**

24. Having regard to above chronology and sequence, the Tribunal is not satisfied that it is necessary in the interests of justice to set aside the Judgment sent to the parties on 8 August 2023.
25. The Tribunal is not satisfied that the claimant could not have made the application much sooner. This is significant as the claimant's termination was in May 2022 and especially having regard to the overriding objective to avoid delay.
26. As early as 22 August 2023, the claimant was asserting that she had evidence which could support her application for reconsideration. Nothing was volunteered or provided.
27. The claimant asserted again on 2 April 2024, that she had evidence that the ET1 had been submitted in time which could be provided. Again, nothing was volunteered or provided.
28. The claimant asserted in her statement of 8 July 2025 that she had evidence but that this was different evidence to what was found on 12 March 2025.

29. During the period up to 24 June 2024, the claimant's phone was not faulty. It had also been used to submit another screenshot of a job application on 7 November 2023.
30. The Tribunal concludes the claimant had evidence in her possession on 22 August 2023 and/or on 2 April 2024 which she deliberately or carelessly did not volunteer which undermines the application made on 13 March 2025. It is not clear in what respect the earlier evidence was different if indeed it was different.
31. The claimant's non provision of the evidence earlier and the consequential delay is unexplained by the claimant.
32. The respondent asserts prejudice in its written submission of 22 July 2025 as a result of the delay and passage of time and the consequential impact on its ability to prepare its defence, having relied on the finality of proceedings to date. This is also a factor the Tribunal has had regard to.
33. The claimant has also not responded to the Tribunal's questions in its Order of 24 June 2025. Whilst the claimant says she made the assumption that she had submitted the ET1 on 8 November 2023, the claimant has not said at all whether or not she believed she had indeed submitted it on 7 November 2023 and whether or not she believed she took a screen shot at the time. She did say in her statement that she had a habit of taking screenshots but did not address the Tribunal's specific question.

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**Approved by  
Regional Employment Judge Khalil  
18 August 2025**