



# EMPLOYMENT TRIBUNALS

**Claimant: Mr F Ijelekhai**

**Respondent: Compass Group UK & Ireland Limited**

**UPON APPLICATION** made by letter dated 4 June 2025 to reconsider the judgment dated 28 May 2025 under rule 68 of the Employment Tribunals Rules of Procedure 2024.

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The claimant's application for reconsideration of my judgment is refused as regards the claims of indirect race discrimination and redundancy pay.
2. The application is granted in part. The original judgment striking out the claim for unlawful deduction from wages is varied. The claim is restored to the list and is subject to case management orders made at the hearing on 28 May 2025 in respect of the remaining claims, including disclosure of relevant documents and exchange of witness statements.

## REASONS

### Introduction

1. This is my decision on an application by the claimant for reconsideration of part of my judgment dated 28 May 2025 in which I struck out the claimant's claims for indirect race discrimination, redundancy pay, and unlawful deduction from wages, following a public preliminary hearing on 28 May 2025.
2. The reconsideration application was made on 4 June 2025, supported by detailed written submissions from the claimant's representative. I have considered those submissions, the original judgment, and the relevant legal framework.
3. This decision is made pursuant to Rule 68, which provides that the Tribunal may reconsider a judgment where it is necessary in the interests

of justice to do so. The Tribunal may confirm, vary, or revoke the original decision and, if revoked, may direct that the matter be taken again.

4. I have had regard to the principles set out in **Outasight VB Ltd v Brown, Williams v Ferrosan Ltd [2015] ICR D11 (EAT)**, **Sodexo Ltd v Gibbons [2005] ICR 1647 (EAT)**, **Trimble v Supertravel Ltd [1982] ICR 440 (EAT)**, and **Stonehill Furniture Ltd v Phillippo [1983] ICR 556 (EAT)**. I have also borne in mind the overriding objective under Rule 3.

#### Scope of Reconsideration

5. The application for reconsideration engages Rule 68, as the decision to strike out these claims was a "judgment" within the meaning of Rule 2(1), finally determining those parts of the claim.
6. The issue for me is whether it is necessary in the interests of justice to reconsider my judgment. The interests of justice must be balanced between the parties and take account of the public interest in finality of litigation. Reconsideration is not a mechanism to reargue the merits of a decision, but it may be appropriate where there has been a procedural mishap or unfairness, or where relevant matters were overlooked.

#### Indirect Race Discrimination Claim

7. The claimant contends that I erred in striking out the indirect race discrimination claim. The application, however, advances no clear argument that a procedural mishap occurred in relation to this aspect of my judgment.
8. My decision recorded that the claimant had failed to identify a provision, criterion, or practice (PCP) with the requisite group-based impact required under section 19 of the Equality Act 2010. No such PCP was identified either in the claimant's further particulars or oral submissions at the hearing.
9. The reconsideration application largely restates the same arguments made at the preliminary hearing and disputes the correctness of my legal reasoning. It does not establish that I overlooked any material point, that a relevant argument was not heard, or that any procedural unfairness occurred.
10. In these circumstances, it is not necessary in the interests of justice to reconsider my decision in respect of the indirect race discrimination claim. This part of the application is refused.

#### Redundancy Pay Claim

11. The claimant further submits that I erred in striking out the redundancy pay claim. Again, the application presents no persuasive argument that any procedural mishap or unfairness occurred.
12. My original judgment recorded that the redundancy claim was speculative and unsupported by evidence. There was no redundancy situation, no closure of the workplace, and no dismissal by reason of redundancy. The

claimant resigned voluntarily. The application for reconsideration merely seeks to reargue the same points already considered and decided.

13. There is no indication that I failed to consider any relevant submissions or overlooked any material issue. Accordingly, I am satisfied that it is not necessary in the interests of justice to reconsider my decision in respect of the redundancy pay claim. This part of the application is refused.

Unlawful Deduction from Wages Claim

14. The claim for unpaid wages was pleaded from the outset in the claimant's ET1 and was clearly addressed and defended in the respondents' ET3 and Grounds of Resistance. The parties were given the opportunity to make submissions in respect of this claim during the hearing.
15. Accordingly, the Tribunal is satisfied that the respondent has had a full and fair opportunity to make representations in relation to the wages claim. There is no procedural unfairness or failure to afford the respondent a proper opportunity to be heard on this issue. The principles in **Estorffe v Smith** are complied with.
16. The claimant submits that I erred in striking out the unlawful deduction from wages claim on the basis that the claim could not be fully particularised because the respondent failed to provide disclosure of payslips and pension records, despite repeated requests.
17. My original judgment noted that the claim was vague and unsupported by essential particulars, and that disclosure had not yet been ordered. The claimant had been given two opportunities to particularize the claim.
18. Upon reflection, and considering the reconsideration submissions, I accept that there is some merit in the claimant's argument that the inability to provide full particulars was materially caused by the respondent's failure to provide relevant documents. The claim for unlawful deduction of wages is inherently document-based. Without access to the full payslips and pension records, it was unreasonable to expect the claimant to particularize the claim fully.
19. I am satisfied that in this respect there is an arguable procedural unfairness, amounting to a procedural mishap within the meaning of the authorities, particularly **Williams v Ferrosan Ltd**, **Sodexho Ltd v Gibbons**, and **Trimble v Supertravel Ltd**. Striking out the claim in those circumstances may have denied the claimant a fair opportunity to present his case.

Exercise of Discretion under Rule 68

20. Under Rule 68, I have the power to confirm, vary, or revoke my original judgment. As explained in **Stonehill Furniture Ltd v Phillippo**, I am not required to order a full rehearing of the strike-out application if it is clear that a variation of the original decision will meet the interests of justice.
21. In this case, I consider that it is appropriate to vary my original judgment as follows:

- a. The strike-out of the unlawful deduction from wages claim is set aside.
  - b. The claim is restored to the list and will proceed is subject to case management orders made at the hearing on 28 May 2025 in respect of the remaining claims, including disclosure of relevant documents and exchange of witness statements.
22. This approach balances the interests of both parties and serves the overriding objective. It avoids unnecessary delay and ensures that the claimant is not deprived of a fair opportunity to pursue a potentially viable claim that cannot at this stage be properly evaluated without disclosure.

**Conclusion**

23. For the reasons set out above:
- a. The application for reconsideration is refused as regards the claims of indirect race discrimination and redundancy pay.
  - b. The application is granted in part as regards the claim for unlawful deduction from wages. The strike-out of that claim is varied as set out above.

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Employment Judge A.M.S. Green  
6 June 2025