



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 8000240/2025**

**Held in Glasgow on 22 August 2025**

**Employment Judge D Hoey**

**Mr A Elatabani**

**Claimant**

**GXO Logistics UK Limited**

**Respondent**

### **RECONSIDERATION JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

In terms of Rule 70(2) of the Employment Tribunal Rules of Procedure 2024, the claimant's third application dated 15 August 2025 for reconsideration of the judgment dated 8 July 2025 dismissing the claim is refused, there being no reasonable prospect of varying the decision.

### **REASONS**

1. Following judgment being issued dismissing the claim, the claimant lodged a detailed reconsideration application. That was considered in detail and by decision dated 21 July 2025 the application was dismissed, there being no reasonable basis on which the original decision could be varied.
2. On 23 July 2025 the claimant submitted 2 further emails arguing that the Tribunal had not taken into account various failures by the respondent. That application was dismissed, there being no reasonable basis on which the original decision could be varied.
3. On 15 August 2025 the claimant submitted a third reconsideration application. He argued that there were complaints within his ET1 which were omitted from the list of issues and not substantively determined.
4. He submitted a 22 page application which he said shows complaints raised that he wished to advance and why he says his claim should not have been dismissed.

## The law

5. 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. Where a reconsideration application is made, in terms of rule 70(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”.
6. The importance of finality was confirmed by the **Court of Appeal in Ministry of Justice v Burton and another [2016] EWCA Civ 714** in July 2016 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.”*
7. Similarly, in **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the Employment Appeal Tribunal chaired by Simler P said in paragraph 34 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.”*
8. In common with all powers under the 2024 Rules, preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective, 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. It is also important to recognise that fairness and justice applies to both parties – the claimant and the respondent.

**The issues raised by the claimant****Complaints and issues not raised at the time**

9. The claimant's application is lengthy and detailed. Regrettably it contains matters that ought to have been raised at the time and prior to conclusion of the claimant's case and his submissions. As set out in the written reasons and in the response to previous reconsideration applications, in this case the claimant was afforded a large amount of time to ensure each of the complaints he wished to advanced were properly and fairly set out.
10. The first day of the hearing was given to the claimant, at his and the respondent's request, to work with his interpreter and go through the correspondence and pleadings and ensure the complaints which the claimant was advancing were fully, fairly and comprehensively set out. The claimant understood that it was important to be fair to both parties (and the Tribunal) that the claim was properly set out and everyone understood each of the issues.
11. The background of this case is important. A large amount of correspondence had been generated and as a result there was uncertainty as to the precise basis of the complaints. For that reason a full day was given to the parties to ensure the claim was set out. The claimant worked with the respondent, with the benefit of an interpreter, and the final issues to be determined was provided at the commencement of day 2 of the hearing.
12. The claimant now wishes to raise a large number of new complaints and issues that were not advanced by him. The claimant sets out the procedural history in this case. He argued that he was placed under pressure to finalise the issues and argues there was "duress" and "pressure". It was the lack of clarity in the claimant's case which required, pursuant to the overriding objective, the parties to work together for the whole of the first day (outwith my presence) to finalise the issues. The parties had known the details of the hearing for a number of weeks. It was essential, as explained to the claimant, that both parties (and the Tribunal) understood the precise basis of the claim the claimant was presenting, not least to ensure the respondent could fairly respond to it.
13. It is not fair to say that the claimant was placed under unfair pressure to set out his case. It was necessary for the claimant to be precise and clear at the Hearing what his claim was. As there was uncertainty time was fairly given to him to ensure there was certainty and fairness. Other than in relation to his alleged forced dismissal (which the claimant was not allowed to advance, there having been no fair notice of this) the claimant confirmed he was satisfied by the end of the Hearing, each of the complaints he wished to

advance had been properly set out by him. No other issues arose as to outstanding issues or complaints. The claimant had a fair opportunity to raise any other issues prior to or during the submissions stage. He failed to do so. A decision was issued on the basis of the case the claimant presented.

14. It is not in the interests of justice to vary the decision reached given the steps taken to work with the claimant to ensure he fairly set out what his case was.

### **Challenges to the decision**

15. The claimant then sets out various detailed challenges in relation to the findings and decision. The Tribunal has set out its reasons for its position and there are no matters within the claimant's detailed response which result in it being in the interests of justice to vary the decision. Reconsideration is not an opportunity for the parties to present further arguments as to the issues. The claimant has the opportunity to appeal should there be grounds to do so. There is no fair basis to reconsider the decision which was reached from an assessment of the evidence before the Tribunal. Each of the points raised by the claimant as to the issues was considered and the reasons issued explain the basis for the decision reached. There is no basis to reconsider that decision.

### **New complaints**

16. Finally the claimant argues that there are complaints he ought to be able to raise, namely unlawful decision of wages/breach of contract, "contractual dismissal" and "unequal pay" and TUPE. There were not complaints before the Tribunal and in the event the claimant wishes to proceed, he requires to follow the normal process as to raising such complaints.

### **Taking a step back**

17. I have again taken a step back in light of all the points the claimant raised in both communications in light of what happened in this case. It is important to ensure that the procedure followed and decision taken is fair to each party. That includes the claimant but also the respondent who was required to bring evidence and meet each of the complaints raised by the claimant.
18. In issuing my oral judgment I expressly referred to the fact that consideration had been given to the fact that the claimant was not legally qualified (even although he had been able to understand and engage with the complex legal terms and complaints) and that English was not his first language. Those factors had been taken into account which was why considerable time (and latitude) was given to the claimant in terms of setting his claim out, presenting his evidence (and challenging the respondent's witnesses) and in making

submissions (and understanding and responding to the respondent's position).

19. I found no procedural irregularity and no basis that justified revisiting the decision that had been taken taking account of the detailed and lengthy points raised by the claimant. The claimant fully understood the claim he was bringing and the claim that had been set out. The claimant was given numerous opportunities to raise any concerns about any omissions or concerns and confirmed at the submissions stage that no issues were outstanding and a decision was to be made on the case as set out above. The respondent had prepared their case based upon what the claimant had set out with no issues having been raised.
20. The claimant heard the evidence of each of the respondent's witnesses and knew that he required to put his case to each witness and challenge any point with which he disagreed. The decision that was taken was taken fairly from the evidence presented and the decision taken was based upon the claim clearly articulated by the claimant. There is no fair basis to revisit that decision nor reconsider any aspect. The reasons fully explain why the claim failed. There is no basis to reconsider that decision and if the claimant wishes to present new complaints, he should do so in the usual manner.

### **Conclusion**

21. I considered the overriding objecting in reaching my decision to ensure the decision taken was fair and just. That applies to both the claimant and the respondent since justice requires to be achieved for both parties. I have done so carefully.
22. Having considered the full factual matrix I have decided that it remains not just to allow the claimant's reconsideration application to proceed.

**Date sent to parties**

**26 August 2025**

---