



EMPLOYMENT TRIBUNALS

Claimant:
Mr L Arendarski

v

Respondent:
LDNCHAUFFEUR LTD

On the papers before: Employment Judge Fredericks-Bowyer

On: 23 July 2025

JUDGMENT ON APPLICATION FOR RECONSIDERATION

In exercise of powers contained in Rule 68 of the Employment Tribunals Procedure Rules 2024 (“**Rules**”), the respondent’s application for reconsideration of the judgment given on 1 July 2025 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

Principles of Reconsideration

1. As is set out in Rule 68, I may reconsider a judgment where I consider it is necessary in the interest of justice to do so. The application has been made in time.
2. The interest of justice in this case should be measured as a balance between both parties; both the applicant and the respondent to a reconsideration application have interests which much be regarded against the interests of justice (Outasight VB Limited v Brown [2014] UKEAT/0253/14).

3. In Brown, Her Honour Judge Eady QC (as was) said that the general public also have an interest in such cases because there should be an expectation of the finality of litigation. This was an expectation outlined by Mr Justice Phillips in Flint v Eastern Electricity Board [1975] ICR936, who said “*it is very much in the interests of the general public that proceedings of this kind should be as final as possible*”. He also said it was unjust to give the loser in litigation a “*second bite of the cherry*” where, having lost and learnt of the reasons for losing, a litigant seeks to re-argue points and bring additional evidence or information which would overcome the reasons given for the loss.

Grounds and reasons of reconsideration application

4. The application is advanced under several headings:-
 - 4.1. I had not seen the request for postponement made on the day prior to the hearing (30 June 2025) which had medical evidence;
 - 4.2. The claimant fraudulently obtained information from a clinic in UAE about Mr Golan, the respondent's director;
 - 4.3. The current judgment represents miscarriage of justice;
 - 4.4. My judgment was an error of law;
 - 4.5. The hearing did not follow correct procedure;
 - 4.6. The judgment was unfairly biased against the respondent;
 - 4.7. The claimant agreed in terms and conditions that he was self-employed; and
 - 4.8. The claimant was not employed;
5. The application attached the postponement application and documents of 30 June 2025, as well as the exchange of messages the claimant procured through contacting the relevant clinic and being told that Mr Golan was not a patient, contrary to the postponement applications made and previously granted by the Tribunal.

Decision on the reconsideration application

6. I am the Judge who made the decision subject of reconsideration, and so it is for me to consider this application and how it should be dealt with.
7. I considered the application of 30 June 2025 in the hearing on 1 July 2025. Mr Golan is correct that the application was not sent to me, but it had been placed on the Tribunal file, and I considered it. As the judgment recorded, the application was refused.
8. There was a final hearing listed to be heard on 1 March 2023. It was postponed after Mr Golan gave documentary evidence about his health.
9. There were further postponed hearings on 27 September 2023, 15 February 2024, and 30 May 2024.

10. On 17 February 2025, the respondent applied for the case to be dismissed or stayed:

"I am away from UK until indefinite now. I had serious complications from injuries and long covid. I can hardly stand

or talk on occasions

I reside abroad in Middle East where I undergo treatment.

Please note that this matter must be dismissed from courts or postponed for at least two/three years.

It is fraudulent and will be dealt with with full force of the law"

11. There was a case management hearing on 3 March 2025, which listed the hearing I presided over. Mr Golan attended that hearing. There was no dismissal or stay. The respondent was required to follow certain case management orders from that hearing, none of which appear to have been complied with.

12. On 17 June 2025, Mr Golan for the respondent answered the Tribunal's hearing questionnaire. In it, he informed the Tribunal that:-

12.1. He would not attend the hearing because he no longer lives in the UK and is undergoing serious medical procedure;

12.2. He was not able to provide supporting evidence by the hearing;

12.3. He is the only person able to deal with the matter and was unable to do so; and

12.4. He would mediate the matter if possible.

13. That response did not contain an application to postpone the hearing. It appears from the response that the respondent was content for or resigned to the hearing going ahead in its absence.

14. The application on 30 June 2025 contains a letter from Dr Moosa Kazim, a Consultant Orthopedic Surgeon. It says that Mr Golan would be admitted for a period of three months. The letter appears unusual in its formatting and the claimant presented evidence which cast doubt on its veracity. The respondent also produced a plane ticket booking for a trip from Warsaw to Dubai from April 2025.

15. There was no evidence before me that Mr Golan had sought permission to give evidence from abroad. There was no evidence before me that Mr Golan had planned to return to the jurisdiction to give evidence (such as a travel booking) which had been frustrated by his ill health.

16. The respondent did not attend the hearing in any form, even by telephone, to ensure the application was presented or argued.

17. There have been multiple postponement applications made by the respondent. This application was presented the day before the hearing. Under Rule 32 Employment Tribunal Procedure Rules 2024, I can only grant postponement where (1) the claimant agreed, (2) there was an act or omission causing the need to postpone by the claimant or the Tribunal, or (3) there are exceptional circumstances. (1) and (2) do not apply.
18. In my view, the application presented by the respondent did not amount to exceptional circumstances. The circumstances around Mr Golan's health, assuming they are correct, have been known of since the first postponement issued. Mr Golan since advised that he permanently resides in UAE. Knowing that, he appears to have made no attempt to find a way to attend the final hearing through different means. There has been serious delay in hearing this relatively straightforward claim. Where there are no exceptional circumstances, I do not consider I have discretion to postpone the hearing.
19. Even if I had that discretion, then the prejudice to the claimant in delaying the claim in circumstances where the respondent says it cannot attend a hearing in part because of permanent relocation seems to me to outweigh any prejudice to the respondent. That deals with the application to postpone the hearing, which was refused. There is no reasonable prospect of that decision being altered.
20. The respondent also submitted that it did not receive the case management orders from the preliminary hearing in March 2025. In my view, this does not amount to exceptional circumstances. First, it appears the orders were sent. Even if not, there is no record of the respondent asking for them. Even if so, then the orders make clear that, in accordance with the Rules, directions made in a hearing (which Mr Golan attended) apply to the parties regardless of whether they receive the written orders at the time of compliance. The important information there, the date of the hearing, the respondent did know about.
21. In the absence of the respondent, I heard evidence from the claimant. He satisfied me about the matters required to prove the elements of his claim which were successful. The respondent cannot now seek to have that decision reconsidered having missed the opportunity to oppose the case in the hearing. In my view, to reconsider now would be a second bite of the cherry.
22. In any case, none of the arguments advanced about the claimant's employment status assist the respondent in reconsideration. It is well understood law that what is written on the documents is only one part of the examination about whether someone is an employee or worker. The claimant provided me with evidence which demonstrated that the written documentation did not reflect the true relationship between the parties and so could be overlooked to make an accurate finding about the relationship in question.
23. This application is refused in its entirety.

Case Number: 2304011/2022

Approved by: Employment Judge Fredericks-Bowyer

Dated: 23 July 2025