



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr Gary Nelson

AND

Respondent

Achieve Together Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD IN CHAMBERS AT Plymouth ON

4 October 2024

EMPLOYMENT JUDGE N J Roper

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the judgment with reserved reasons dated 25 July 2024 which was sent to the parties on 29 August 2024 ("the Judgment"). Judgment had originally been given verbally at the end of the hearing on 24 July 2024 but because of an administrative oversight, the Judgment was not sent to the parties until 29 August 2024. Before receipt of the Judgment the claimant had made a written application for an "appeal" dated 22 August 2024. By letter dated 25 September 2024 the claimant was asked to confirm if he wished to pursue an application for reconsideration following recent receipt of the Judgment, and if so on what grounds. The claimant then responded setting out his grounds for an

application for reconsideration in two emails dated 1 October 2024. Those emails were received at the tribunal office on 1 October 2024.

2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the suggested time period in the letter to the claimant dated 25 September 2024.
3. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
4. The grounds relied upon by the claimant are these. First, the Judge and/or the panel were biased against the claimant. Secondly there were unaware of and/or did not accommodate the claimant's disability. Thirdly the respondent was lying when it claimed that it did not know of the claimant's disability. Fourthly the respondent's solicitors had deliberately omitted documents from the agreed bundle of documents. Fifthly the respondent failed to disclose documents which now form the subject of an apparent complaint to the Information Commissioner's Office.
5. Apart from the first allegation (which has only arisen after the claimant was informed that his claims were dismissed), all of the matters raised were discussed, or were capable of being raised, during the course of the hearing. The tribunal hearing the claim was aware the claimant's disability and accommodated this, as confirmed in the Judgment. There was an agreed bundle of documents, and the claimant was at liberty to raise matters concerning documents, and indeed did so during the hearing. This Tribunal is unable to assist in connection with a subsequent dispute concerning the Information Commissioner's Office. The matters raised by the claimant were considered in the light of all of the evidence presented to the tribunal before it reached its unanimous decision.
6. Judicial discretion as to reconsideration should be exercised having regard to the interests of both parties and the public interest in finality in litigation (Outasight VB Ltd v Brown UKEAT/0253/14/LA).
7. The earlier case law suggests that the interests of justice ground should be construed restrictively. The Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/80 (where the applicant was seeking a review in the interests of justice under the former Rules which is analogous to a reconsideration under the current Rules) the EAT decided that the interests of justice ground of review does not mean "that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically

wrong with the procedure involving a denial of natural justice or something of that order”.

8. More recent case law suggests that the "interests of justice" ground should not be construed as restrictively as it was prior to the introduction of the "overriding objective" (which is now set out in Rule 2). This requires the tribunal to give effect to the overriding objective to deal with cases fairly and justly. As confirmed in Williams v Ferrosan Ltd [2004] IRLR 607 EAT, it is no longer the case that the "interests of justice" ground was only appropriate in exceptional circumstances. However, in Newcastle Upon Tyne City Council v Marsden [2010] IRLR 743, the EAT confirmed that it is incorrect to assert that the interests of justice ground need not necessarily be construed so restrictively, since the overriding objective to deal with cases justly required the application of recognised principles. These include that there should be finality in litigation, which is in the interest of both parties.
9. In Ebury Partners UK Ltd v Davis EAT [2023] the EAT held that while it may be appropriate to reconsider a decision where there has been some procedural mishap, the jurisdiction should not be invoked to correct a supposed error made by the tribunal after the parties have had a fair opportunity to present their case on the relevant issue. This is particularly the case where the error alleges one of law, which is more appropriately corrected by the EAT.
10. Accordingly, I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge N J Roper
Dated: 4 October 2025

Judgment sent to Parties on
7 November 2025

Jade Lobb
For the Tribunal Office