



EMPLOYMENT TRIBUNALS

Claimant: Mr Anthony Cato

Respondent: Bidvest Noonan (UK) Limited

JUDGMENT ON RECONSIDERATION

The Claimant's application under Rule 69 of the Employment Tribunal Procedure Rules 2024 to reconsider the judgment given orally to the parties on 16 October 2025 is refused on the basis that there is no reasonable prospect of the judgment being varied or revoked, as required by Rule 70(2) of the Employment Tribunal Rules of Procedure 2024.

REASONS

Introduction

1. This is an application by Mr Anthony Cato for reconsideration of my judgment dated 16 October 2025, sent to the parties on the same day following a public preliminary hearing, at which I heard evidence from the claimant and considered submissions from both parties' representatives. Reasons were given orally at the conclusion of that hearing.
2. In that judgment, I ordered that the claimant's claim be dismissed on the grounds that it had not been presented within the applicable time limit yet it had been reasonably practicable to do so.
3. The claimant has applied for reconsideration of that judgment on the basis that:
 - a. his representative was not from this country and did not know the English law, of which he was unaware until the day of the hearing;

- b. there is “new evidence” in the matter, namely:
 - i. the claimant states that he thought he had until December to submit his claim; and
 - ii. the applicable time limits are confusing and, especially being dyslexic, he would not have realised this with everything else he had to deal with at the time; and
- c. The tribunal did not take into account the stress, loss of self-esteem and emotional depression that the claimant had experienced in such a short time due to losing his job and his mum being diagnosed with a serious illness.

Law

- 4. Rules 68 to 71 of the Employment Tribunal Procedure Rules 2024 provide as follows:

RECONSIDERATION OF JUDGMENTS

Principles

68. (1) *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.*

(2) *A judgment under reconsideration may be confirmed, varied or revoked.*

(3) *If the judgment under reconsideration is revoked the Tribunal may take the decision again. In doing so, the Tribunal is not required to come to the same conclusion.*

Application for reconsideration

69. *Except where it is made in the course of a hearing, an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of—*

(a) the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or

(b) the date that the written reasons were sent, if these were sent separately.

Process for reconsideration

70. (1) *The Tribunal must consider any application made under rule 69 (application for reconsideration).*

(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.*

(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.*

(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.*

(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.*

Reconsideration by the Tribunal on its own initiative

71. *Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).*

5. Whilst the discretion under the rules is wide under the 'interests of justice' test, it is not boundless; it must be exercised judicially and with regard, not just to the interests of the party seeking the review, but also to the interests of the other party and to the public interest requirement that there should, as far as possible, be finality of litigation - Flint v Eastern Electricity Board [1975] ICR 395 at 401, per Phillips J, at 404.
6. Reconsideration may be necessary in the interests of justice if there is new evidence that was not available to the tribunal at the time it made its judgment, applying the principles established in Ladd v Marshall [1954] 3 All ER 74, CA, namely:
 - a. that the evidence could not have been obtained with reasonable diligence for use at the original hearing;

- b. that the evidence is relevant and would probably have had an important influence on the hearing; and
- c. that the evidence is apparently credible.

Decision

- 7. In accordance with rule 68(1), I may reconsider any judgment “where it is necessary in the interests of justice to do so”. In doing so I must seek to give effect to the overriding objective to deal with cases fairly and justly, as set out in rule 3 of the Employment Tribunal Procedure Rules 2024.
- 8. However, under rule 70(2), if I consider that there is no reasonable prospect of the judgment being varied or revoked, the application must be refused. There is no discretion for me to go on to consider whether that judgment should be varied or revoked in those circumstances.
- 9. I have therefore considered each of the claimant’s grounds carefully, to decide whether there is a reasonable prospect of the judgment being varied or revoked.
- 10. In relation to the first ground, the claimant was represented by the Free Representation Unit (“FRU”). His representative addressed the tribunal on the correct legal test and covered the points I would have expected. The tribunal heard evidence directly from the claimant and heard helpful submissions from both parties. No evidence has been provided to indicate that the claimant’s likelihood of success was impaired by the experience of his representative.
- 11. The tribunal is accustomed to cases being presented by litigants in person and by lay representatives, including through FRU, whose services assist those who otherwise cannot afford, or otherwise are unable to obtain, legal representation. The tribunal must consider the relevant legal test irrespective of the parties’ submissions and the tribunal is under an obligation at all times to consider the overriding objective to deal with cases justly. That expressly includes ensuring that the parties are on an equal footing, regardless of whether they are represented and irrespective of the experience of their representatives. There is no reasonable prospect that the judgment of 16 October 2025 would be varied or revoked on this ground.
- 12. On the second ground, labelled by the claimant as “new evidence”, I have carefully considered the principles established in **Ladd v Marshall** but what is characterised in the claimant’s application is not truly new evidence as it was available to the tribunal at the hearing, other than his statement that he thought he had until December 2024 in which to submit his claim. This was not made clear at the hearing, at which he stated that he was at all times unaware of the time limit until it had passed, but it also does not correlate with the fact that his claim was, in fact, submitted to the Tribunal on 19 February 2025. If the claimant had thought it was

due by December 2024, it does not assist his case that he did not present it by that date given that this was earlier than the actual expiry of the primary time limit on 23 January 2025.

13. It was clear from the claimant's evidence that he found the tribunal process, including understanding time limits, confusing. This is not uncommon for unrepresented parties. The difficulties he experiences as a result of his dyslexia were also made clear by him, albeit that no medical evidence was provided on that point, as were the various pressures he had to deal with at the relevant time. This was all considered as part of my deliberation and had been factored into my decision. While it is accepted that the claimant found the process confusing, the law is clear on the reasonable practicability of presenting a claim within the statutory time limit and there is no new information presented by the claimant in his application that gives me cause to suspect that this judgment would be varied or revoked were it to be reconsidered.
14. On the third ground, I did take into account the matters raised by the claimant in his application at the hearing on 16 October 2025. The claimant found himself in a very difficult position personally, due to the health of his mother, his childcare responsibilities and having to find a new job. I balanced this in my consideration of whether it was reasonably practicable for him to have presented his complaint in time. However, on the evidence presented, including the Claimant's acceptance in evidence that, while it would have been very difficult, had he been already aware of the time limit it would have been possible for him to submit a claim within the time limit, I concluded that it was reasonably practicable for him to do so. I do not consider there to be any reasonable prospect of this judgment being reconsidered on this ground.
15. For the avoidance of doubt, I have also considered whether there is any reasonable prospect of varying or revoking the judgment when considering all three grounds cumulatively and concluded that there is not.
16. Accordingly, as there is no reasonable prospect of the judgment being varied or revoked, as required by Rule 70(2) of the Employment Tribunal Rules of Procedure 2024, the claimant's application is hereby refused.

Employment Judge Moyler
10 November 2025

Judgment sent to the parties on:
25 November 2025

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For the Tribunal:
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