



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr G W Mbuyi

Rail Gourmet UK Limited

JUDGMENT ON RECONSIDERATION

Rules 69 - 71 of the Employment Tribunal Rules of Procedure 2024

Upon the claimant's application made by email of 24 November 2025 to reconsider the judgment given orally to the parties on 7 October 2025 and with reasons sent to the parties on 10 November 2025 under Rule 70 Employment Tribunal Rules of Procedure 2024 and without a hearing:-

The application to reconsider is refused as there is no reasonable prospect of the judgment being varied or revoked.

REASONS

Introduction

1. The claimant's claims for unfair dismissal, direct race discrimination and unlawful deduction of wages and breach of contract brought against the respondent was heard by a full tribunal over 5 days in July and October 2025. His claims were unsuccessful for the reasons given orally and in the written reasons sent when requested. The claimant made an application for reconsideration by email on 24 November but, unfortunately, the employment judge was unaware of that application until late January 2025.
2. In the document accompanying the email of 24 November 2025, the claimant states that reconsideration should take place in the interests of justice. He says that the tribunal has overlooked or misunderstood the evidence and made findings not supported by the evidence and/or applied the law incorrectly. He also says that the tribunal has failed to evaluate the comparators for consistency and fairness.
3. The claimant then provides further information on why he says reconsideration should take place. In summary, he states that the tribunal have failed to consider the question of the "re-opening" of the disciplinary

proceedings after the final written warning was given; that the issue of accessing of former employees' accounts had been raised at the first disciplinary hearing and that we failed to apply the Burchell test or *Sainsbury v Hitt*. He says that the tribunal did not consider that the comparators for the race discrimination matter also breached the rules of the PALS system and his dismissal showed bias. Finally, with respect to his claim for unlawful deduction of wages, he states that the tribunal's inability to understand his claim is not a good reason to reject it. He asks the tribunal to reconsider all or some of his claims.

Rules

4. The relevant employment tribunal rules for this application read as follows:

RECONSIDERATION OF JUDGMENTS

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.*

5. In essence, my first task is to consider whether the application has been made in time under Rule 69. I accept that the application appears to have been made in time.
6. I should then consider whether there is no reasonable prospect of the judgment being varied or revoked. If I decide that, I must, under Rule 70 (2) refuse the application and inform the parties.

Conclusions

7. I consider that there are no reasonable prospects of the judgment being varied or revoked and must refuse it under Rule 70 (2). This was a full hearing over 5 days with the benefit of an interpreter for the claimant. The issues which the claimant raises are those which were considered and determined during the hearing. There is no new evidence and the claimant appears to be repeating arguments made at the time.
8. The tribunal have considered and determined the issue of a final written warning being awarded (but with a demotion which the claimant did not accept) and then a further disciplinary hearing being arranged. This, importantly, included the issue of the claimant having changed colleagues' passwords. The issue of former employees' accounts being accessed by the claimant was given more emphasis at the second disciplinary hearing and reasons were provided for that. The tribunal considered and determined whether the comparators' treatment indicated any discrimination because of race and decided that their circumstances were materially different.
9. Finally, the claim for unlawful deduction of wages was found to be out of time. The claimant could not show that he was owed any sums in wages, even if it had been in time.
10. In summary, the claimant is seeking to re-argue the case which was fully argued at the hearing. We heard evidence and evaluated it. The claimant is, understandably, disappointed in the outcome, but it cannot be in the interests of justice to reconsider that which has been fully considered and determined by a full tribunal over a five day hearing. There is no reasonable prospect of the judgment being varied or revoked.

**Approved by
Employment Judge Manley**

Dated 9 February 2026

**Judgment sent to the parties on
9 February 2026**

For Secretary of the Tribunals