EMPLOYMENT TRIBUNALS

Claimant: Ms S Thaker

Respondent: Prolojik Ltd

JUDGMENT DEALING WITH APPLICATION TO RECONSIDER COSTS JUDGMENT

The claimant's application dated **26 November 2025** for reconsideration of the judgment, sent to the parties on **13 November 2025 (**with written reasons in a separate document also sent **13 November 2025)** is refused as it has no reasonable prospects of success.

REASONS

1. Rules 68-70 of the Tribunal Rules provides as follows:

68. Principles
(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..

69. Application for reconsideration
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..

70.— Process for reconsideration
(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.

2. The Tribunal has discretion to reconsider a judgment if it considers it in the interests of justice to do so. Rule 70(2) requires the judge to dismiss an application if the judge decides that there is no reasonable prospect of the original decision being varied or revoked. Otherwise, the application is dealt with under the remainder of Rule 70.

3. When deciding what is "necessary in the interests of justice", it is important to have regard to the overriding objective to deal with cases fairly and justly, which includes: ensuring that the parties are on an equal footing; dealing with cases in ways which are proportionate to the complexity and importance of the issues; avoiding unnecessary formality and seeking flexibility in the proceedings; avoiding delay, so far as compatible with proper consideration of the issues; and saving expense.

4. In deciding whether or not to reconsider the judgment, the tribunal has a broad discretion, which must be exercised judicially, having regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

5. The reconsideration rules and procedure are not intended to provide an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way. They are not intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed (with or without different emphasis). Nor do they provide an opportunity to seek to present new evidence that could have been presented prior to judgment.

6. Under the current version of the rules, there is a single ground for reconsideration — namely, *"*where it is necessary in the interests of justice*".* In Outasight VB Ltd v Brown 2015 ICR D11, the EAT explained that the 2013 revision to the rules had not been intended to make it more easy or more difficult to succeed in a reconsideration application. Earlier versions of the rules had included specific examples of potential grounds for reconsideration; the omission of those specific examples did not mean that those things were

no longer possible routes to reconsideration; an application relying on any of those arguments can still be made in reliance on the "interests of justice" ground.

7. Previous appellate decisions (even under earlier versions of the Rules) can provide helpful guidance to a judge, but they are not intended as a checklist. The individual circumstances of the particular application have to be considered on their own merits.

8. It is not necessary for the applicant to go as far as demonstrating that there were exceptional circumstances justifying reconsideration. There does, however, have to be a good enough justification to overcome the fact that, when issued, judgments are intended to be final (subject to appeal) and that there is therefore a significant difference between asking for a particular matter to be taken into account before judgment (even very late in the day) and after judgment.

9. As was stated in Ebury Partners Uk Limited v Mr M Acton Davis: [2023] EAT 40

> The employment tribunal can therefore only reconsider a decision if it is necessary to do so "in the interests of justice." A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a "second bite of the cherry" and the jurisdiction to reconsider should be exercised with caution.

The application

10. On 26 November 2025, the Claimant made an application for reconsideration which was in time, and which complied with the procedural requirements. There was a covering email and 3 attachments. This was referred to me on 27 January 2026.

11. The attachments sought, in part, to have case management orders made and/or amended, and/or to have the case management summary from the 10 October 2025 amended. Those matters will be addressed separately. This judgment and reasons deals solely with the parts of the email and attachments that sought reconsideration of the decision that the Claimant pay costs to the Respondent (paragraph 2 of the judgment) ("the decision").

12. The decision was announced orally, and reasons were given orally, on 10 October 2025. The hearing dealt with several other matters as well.

13. At the outset of the hearing, we spent some time in making sure that I had all the documents that the parties had sent in. We discussed, amongst other things:

13.1. I had a bundle of documents prepared by the Claimant, which was a

132 page pdf. Amongst other things, that included the Respondent's application for strike out etc dated 26 September 2025.

13.2. I had an email and attachments from the Claimant sent at 9.54am on 9 October. I did not initially have the items, but Mr Sekar handed up hard copies at the start of the hearing and the clerk was able to find the email and forward it to me promptly. Although some of the attachments were dated 7 or 8 October 2025, they are sent to the Tribunal for the first time at 9.54am on 9 October. They included, amongst other things, an application for strike out / deposit order by the Claimant.

13.3. I also had a copy of an email from the Respondent timed at 15:35 on 9 October (so the day before the hearing) which attached an updated application, which included a costs application. I had not noticed this item at the start of the hearing. However, having mentioned the 132 page bundle to the parties, the Claimant's representative, Mr Sekar, drew my attention to its existence, and I was able to find it.

14. In the afternoon, after I had dealt with several other matters, the Respondent made its costs application and the Claimant responded.

15. The Claimant's representative had every opportunity to raise any points of objection to the application and I did not cut short any of the submissions. Where necessary, I asked for clarification of certain points about the Claimant's submissions. I also raised that I could take into account ability to pay, and I asked some questions about that (which, as noted in the written reasons, were answered directly by the Claimant).

16. The reconsideration application refers to Rule 75 and implies that the decision failed to take account of Rule 75(2). I was at the time, and I am still, satisfied that the Claimant had a reasonable opportunity to respond to the costs application. The rules do not require, and I did not think it necessary or appropriate to order it in this case, that there be written submissions from either side. The Respondent made its application orally (albeit by reference to the written application which the Claimant had already received) and the Claimant's representative responded orally.

17. The Respondent's argument in favour of costs was not – in itself - a complicated one, and it is set out in the written reasons. Significantly, on 29 September 2025 (so after the Respondent's 26 September application), the Claimant's representative sent the letter that appeared at page 120 of the bundle and is discussed in the written reasons. The significance of the contents of that letter and the timing of that letter are discussed in more detail in the written reasons. However, the fact that other aspects of the case might raise complex issues (and I am not expressing my own opinion that they are complex, simply taking the Claimant's arguments at their highest) does not mean that the issues raised by the costs application were complex. The

Claimant did make the arguments mentioned in paragraph 10g of the application that the application was "premature". However, those are different to an argument that written submissions should have been ordered.

18. The fact that costs are the exception rather than the rule was fully taken into account.

19. Dealing with paragraph 10b of the application, it is true that the Respondent sought to argue that the Claimant had abandoned any reliance on section 65(1)(c) EQA and that I rejected that argument. Other than that, I do not agree that the contents accurately reflect any order that was made or oral discussions that were held. In making costs submissions on 10 October 2025, Mr Sekar repeatedly asserted that his 27 June document (paragraph 12 in particular) should not be interpreted as an argument by the Claimant that she was seeking to rely on sections 65(1)(a) or (b) EQA. He asserted that the Tribunal had ordered him to make this submission. I made clear that I did not think that was correct and gave him every opportunity to say where such an order appeared. Paragraphs 4.2 and 4.3 of the orders made in May 2025 asked questions, and the Claimant had the choice of answering "no" if she was not seeking to rely on sections 65(1)(a) or (b) EQA. It was her choice (and/or her representative's choice) to answer the questions in the way they did on 12 June 2025. This also deals with paragraph 10a(vi) of the application.

20. The remainder of paragraph 10a of the application is simply a repeat of arguments already made and considered.

21. Dealing with paragraph 10c of the application, the order was given orally at the May hearing. Paragraphs 5 to 13 of the summary from the 23 May 2025 hearing accurately summarise what was discussed. As noted at paragraph 13, Mr Sekar welcomed the opportunity to clarify arguments about which parts of section 65 the Claimant was seeking to rely on. As noted throughout the summary, it was the Respondent's contention that the Claimant could only rely on section 65(1)(c) EQA in the absence of a (successful) amendment application, and it was Mr Sekar who disagreed with that.

22. Dealing with paragraph 10d of the application, to the extent that this is different to paragraph 10b, I do not consider it to be relevant. As I said to the parties at the hearing in October, I had not ordered the Claimant to explain the basis of reliance on section 65(1)(c) EQA and the absence of such an explanation from the further information supplied in June 2025 was not relevant, and certainly did not amount to an implied abandonment of that reliance. The costs application was not based on whether the Claimant had or had not abandoned reliance on section 65(1)(c) EQA.

23. Dealing with paragraph 10e of the application, it is unclear what the Claimant alleges was not fully considered by me when dealing with the Respondent's costs application. However, for avoidance of doubt, I do not regard it as arguable that the costs decision was wrong because, on the Claimant's case, the material factor defence was unclear at the time that the Claimant attended the 23 May 2025 hearing and/or submitted the 12 June document.

24. Dealing with paragraph 10f of the application, it is simply an attempt to add another factor to the argument made at paragraph 10g. The points at paragraph 10g were already considered by me when I decided that the cost application was not premature and when I declined to order that it not be dealt prior to the decisions on liability/remedy.

25. For the reasons stated above, having considered the application, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked, and the application is refused.

Approved by: **Employment Judge Quill**

Date: 10 February 2026

JUDGMENT SENT TO THE PARTIES ON

.....11 February 2026 ..

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FOR THE TRIBUNAL OFFICE