



EMPLOYMENT TRIBUNALS

Claimant: Miss S Dwyer

Respondent: Foundation 92

JUDGMENT

The application of the claimant, dated 12 December 2025, for reconsideration of the Judgments made on 2 July 2025, approved on 6 July 2025 and sent to the parties on 23 July 2025, and on 27 October 2025 and sent to the parties on 8 December 2025, is refused.

REASONS

There is no reasonable prospect of the original decisions being varied or revoked, because:

1. The Judgment made on 2 July 2025 (the First Judgment) was issued after a hearing to determine disability conducted over two days, including an adjournment and a further opportunity to provide any relevant documentation or medical evidence. The claimant was able to present evidence and argument at the hearing.
2. An application to reconsider that decision was made on 15 August 2025. That was not made within the time required by rule 69 of the Employment Tribunals Rules of Procedure.
3. I decided that the application should be should be refused because it was not made within the time required. That was explained in my Judgment made on 27 October 2025 (sent to the parties on 8 December 2025) (the Second Judgment). Importantly, when determining that Judgment, I also considered whether I would have decided that there was a reasonable prospect of the First Judgment being varied or revoked and whether I would have refused the application based upon a preliminary consideration as provided in rule 70 of the Employment Tribunals Rules of Procedure. I decided that I would not have done so. I explained my reasons for doing so in the Second Judgment.
4. The application of 12 December 2025, applies for reconsideration of both the First Judgment and the Second Judgment.

5. I will not reproduce in the reasons for this Judgment a summary of the law as it applies to reconsideration applications, as I have already set that out in the Second Judgment and I applied the same principles when making this decision. However, I would additionally highlight that rule 70(2) expressly sets out that a circumstance in which a Tribunal may consider that there is no reasonable prospect of a Judgment being varied or revoked is where substantially the same application has already been made and refused (unless there are special reasons).

6. I have already decided that there is no reasonable prospect of the First Judgment being varied or revoked in the Second Judgment. I have considered the new application to reconsider the First Judgment. I note that it provides additional medical evidence which details that the claimant was in no fit state to handle or orchestrate administrative commitments in any way or form as at 25 September 2025. I am concerned about the date of that advice, but in the light of that evidence there could be a reasonable prospect that I would have extended time so that I considered the first application even though it was not entered within the time required. However, I do not consider that there is anything in the second application upon which I find (or would have found) there to be any reasonable prospect that I would decide (or would have decided) that the First Judgment should be varied or revoked based upon the merits of the application. I cannot identify any error of law in the First Judgment, the legal and practical arguments raised now are those which the claimant could have raised at the two-day hearing and are therefore effectively a second bite at the cherry, and the contentions raised are predominantly those of an error of law, which are better addressed by the Employment Appeal Tribunal.

7. Having reached that decision regarding the First Judgment, I then considered the application to reconsider the Second Judgment. As I have already explained, there could have been a reasonable prospect of the part of the Second Judgment which determined that the application to reconsider was not made in the time required being reconsidered, on the basis that I could have exercised my discretion to extend time for the application to be made, in the light of the medical evidence provided with the new application. Had I not gone on in the Second Judgment to also assess the application on its merits, I could have sent a notice to the parties in accordance with rule 70(3). However, in the Second Judgment I did also go on and consider whether there was any reasonable prospect of the First Judgment being varied or revoked based upon the substantive issues raised. I decided that there was not. Nothing in the second application alters that decision. I have therefore decided that there is no reasonable prospect of the Second Judgment being varied or revoked, and therefore the application is refused (under rule 70(2)).

8. In the Employment Tribunal's letter of 8 December 2025, I invited either party to write to the Tribunal if they believed that a further preliminary hearing (case management) was required to address any outstanding case management issues which the parties cannot resolve between themselves. In her application for reconsideration, the claimant has asked that the Tribunal give any case management directions necessary to secure fairness, including any timely provision of complete bundles in advance of hearings. I have considered that to in practice be a request which should be addressed at a further preliminary hearing (case management). I have therefore asked for a further such hearing to be

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arranged to address that part of the claimant's application (which is not genuinely an application to reconsider a previous Judgment).

9. I do not find that it is necessary in the interests of justice to reconsider the Judgments, based upon the application made by the claimant. There is no reasonable prospect of the original decisions being varied or revoked, based upon the reasons given. The application for reconsideration is refused.

Employment Judge Phil Allen

9 January 2026

JUDGMENT SENT TO THE PARTIES ON

27 February 2026

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FOR THE TRIBUNAL OFFICE