EMPLOYMENT TRIBUNALS

Claimant: **Dannielle Smith**

Respondent: **HealthRota Limited**

JUDGMENT

The claimant's application dated 05 March 2026 for reconsideration of the judgment sent to the parties on 23 February 2026 is refused.

REASONS

1. The Claimant has made an application for the reconsideration of the reserved judgment as sent to the parties on the 23 February 2026 following the remedy hearing on the 04 December 2026 and the deliberation hearing on the 26 January 2026.

2. The relevant rules are Rules 68, 69 and 70 of the Employment Tribunal Procedure Rules 2024.

3. Rule 68 states:

> *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.*

4. Rule 69 states:

> *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.*

5. The Claimant has applied for reconsideration of the judgment on the following grounds:

> [That] *it was procedurally unfair and contrary to the overriding objective to ignore my three pre-hearing requests for guidance and then rely on the very existence of redactions as the reason to discard the expert evidence in its entirety, without affording me any opportunity to remedy the perceived defect; and that it is not in the interests of justice for any part of this Judgement to be made on what amounts to an administrative oversight.*

6. The application for reconsideration is dated 05 March 2026 and has been made within 14-days of the written Judgment being sent to the Parties. There has been an application for reconsideration, and this has been made within the required time limits.

7. Rule 70 states the following:

> *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.*

8. In accordance with Rule 70, the first consideration must be to determine if there is no reasonable prospect of the judgment being varied or revoked.

9. In considering the Claimant's reconsideration application, I have reviewed the following documents:

   9.1. The Case Management Orders as sent to the Parties on 10 July 2025.

   9.2. The reserved Judgment as sent to the Parties on 23 February 2026.

   9.3. The Claimant's application for reconsideration dated 05 March 2026.

10. Prior to the remedy hearing on 04 December 2025, a remedy hearing had been listed for the 02 July 2025. This hearing was adjourned because, due to the conduct of the Respondent, a medical expert had not been instructed. Whilst the Parties had asked to continue without a medical report, at that time it was determined that it was in the interests of justice to instruct a medical expert, and it was explained to the Parties why this report was required and case management orders were issued. These were sent to the Parties on 10 July 2025.

11. The Claimant states in her reconsideration application that she wrote to the Tribunal on three occasions to seek guidance. The Tribunal was not taken to this correspondence during the hearing.

12. The preliminary decision with regards to any chance that the Claimant's employment would have ended in any event, was determined but remained subject to any finding on personal injury. This is at para 10.1 of the reserved Judgment. It is understood that this is not part of the reconsideration application.

13. At the outset of the hearing, the respondent's representative raised the issue of the redacted medical documentation and the failure by the Claimant to disclose her unredacted medical evidence. It was determined that in the circumstances, it was not in the interests of justice or in keeping with the overriding objective to delay the remedy hearing further and that decisions would be made on the evidence available to the Tribunal. The points raised by the Parties would be considered. It is this preliminary decision that is understood to be the basis of the Claimant's application for reconsideration.

14. In making this preliminary decision, the Tribunal had regard to the following:

    14.1. The Parties had been reminded of their ongoing obligation for disclosure within the case management orders as sent to them on 10 July 2025.

    14.2. The purpose of the medical report was explained to the Parties during the hearing on 02 July 2025 and this was summarized within the case management orders of 10 July 2025. The report was required to assist the Tribunal in the evaluation of the personal injury claim and causation. It was explained to the Claimant that whilst it was important for the Claimant's alleged injury to be evaluated, it was also important for the Respondent to understand how it had caused the injury, if in fact it had, and if so, to what extent.

    14.3. The liability hearing for this case had concluded on 31 January 2025 and to adjourn and re-list would add further delay to the conclusion of this case, which in turn impacts the Parties and other Tribunal users.

    14.4. Given the delays and the reminders regarding disclosure, the Tribunal determined that it was not in the interest of justice to adjourn and seek further medical evidence. The Claimant had had the opportunity to provide the expert with all the relevant evidence, and she also had the opportunity to ask questions of the expert if she did not agree with the report.

14.5. In considering the overriding objective, the parties were on equal footing in the preparation of the report and it was not proportionate to return to the expert. To adjourn the hearing would introduce further delay and expense and taken in the round, it was fair and just to continue with the hearing and evaluate the claim on the evidence before the Tribunal.

15. In considering the Judgment of the Tribunal and the Claimant's application for reconsideration, the decision made by the Tribunal was not based on the very existence of the redactions within the medical evidence.

16. The Tribunal found that the medical evidence in its redacted form identified that the Claimant had previous diagnoses of PTSD and low mood, for which she was receiving treatment at the time of her dismissal. This was admitted by the Claimant. The Tribunal found that this evidence showed that the Claimant had had psychological difficulties prior to her dismissal.

17. The Tribunal found that the Claimant had told the expert that she had had no prior psychological difficulties and the inconsistency between this statement and the evidence, even redacted, was not evaluated by the expert.

18. The Tribunal was not satisfied that material facts within the evidence, as disclosed, had been considered or reviewed and discounted with an explanation by the expert. Nor was the Tribunal satisfied that the expert provided an analysis with reasoning to support the conclusions reached. This was not limited to the medical evidence.

19. The Claimant was afforded the following opportunities:

19.1. There was an ongoing obligation for disclosure. This was repeated within the case management orders as sent to the parties on 10 July 2025, to enable the Parties to prepare for the remedy hearing. The respondent asked the Claimant for unredacted documents and, as at the date of the hearing, the Claimant had not disclosed these.

19.2. The Claimant did not provide evidence in relation to findings by the expert as to the cause of the personal injury, which included the Claimant's assertion that her injury was, in part, caused by her discovery that the respondent had had discussions behind the scenes before her dismissal. The Tribunal found that the evidence provided showed emails between the Claimant and her manager. There was no evidence provided of discussions regarding the Claimant's termination without her knowledge.

19.3. That the medical report states that the Claimant informed the expert that she did not have any prior psychological difficulties, but in evidence the Claimant admitted that she had had a prior diagnosis of PTSD and low mood and that, at the time of her dismissal, she was receiving treatment for both. The Claimant told the Tribunal that the statement within the report could be read in two ways. However, the Claimant could not provide any further explanation. The Tribunal found that the Claimant did tell the expert that she had had no prior psychological difficulties.

19.4. The Claimant could have raised questions of the expert but did not.

20. The Tribunal concluded that the Claimant had not discharged her burden of proof and whilst it was satisfied that the respondent's actions caused an injury to feelings, it was not satisfied that this amounted to a personal injury.

21. There is no reasonable prospect of the original decision being varied or revoked, because it was fair and just to continue with the remedy hearing and the decision made was made on the evidence before the Tribunal where the Claimant had had the opportunity to provide her evidence and to ask questions of the expert if she had so wished.

Approved by:
Employment Judge C Illing
Dated: 25 March 2026