



EMPLOYMENT TRIBUNALS

Claimant: Mr Haroon Ayub

Respondent: Ministry of Defence

RECONSIDERATION JUDGMENT

1. The Claimant's application dated 18 July 2024 for reconsideration of the strike out judgment sent on 11 July 2024 is refused.

REASONS

2. I have undertaken preliminary consideration of the Claimant's application for reconsideration. The Claimant's application is based on the Claimant arguing that he believed that he was going to have to cross examine 11 witnesses by 3 July 2024.

The Law

3. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 68 of The Employment Tribunal Procedure Rules 2024 ('ETPR')).
4. Rule 69 ETPR states, "*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. Rule 70(2) ETPR empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

6. The importance of finality was expressed succinctly by Mrs Justice Simler sitting as President in the EAT decision of **Liddington v 2Gether NHS Foundation Trust EAT/0002/16**. Simler said in paragraph 34 that:

“a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or by adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.”

7. In common with all powers under the ETPR, preliminary consideration under rule 70(2) must be conducted in accordance with the overriding objective as set out in rule 3, namely, to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

Conclusion

8. The Claimant made an application to reconsider the Employment Tribunal decision NOT to strike out the Claimant's claim. The Employment Tribunal did not strike out the Claimant's claim, and there is nothing in the Claimant's application that would indicate that the Claimant wanted the Employment Tribunal to strike out his claim. If by reference to strike out the Claimant actually intended to refer to the dismissal of his claim for non-attendance, the reason the Claimant put forward for non-attendance is something he had an opportunity to do before he failed to attend. Indeed, the Claimant did put forward his reasons for not attending the hearing, which the Employment Tribunal considered. Although not explicitly stated in those reasons for non-attendance, the Employment Tribunal did consider the Claimant's reference to lack of preparation, which would include the Claimant's reference in his reconsideration application to not being able to cross examine 11 witnesses. The Claimant expressed in his application that he was not able to cross examine 5 witnesses, let alone 11. It therefore makes no difference that the Claimant believed that he would have to cross examine 11 witnesses and that the Employment Tribunal did not appraise him of this, as he was not prepared to cross examine 5 witnesses, which he accepts the Employment Tribunal did appraise him of. The Claimant was given ample opportunity to put forward his reasons for non-attendance. The Employment Tribunal found those reasons were not reasonable and determined as such.
9. Reconsideration is not the opportunity to argue matters not put before the Employment Tribunal, and an opportunity for another bite of the cherry. The Claimant is attempting to relitigate matters that have already been properly determined before the Employment Tribunal, and having regard to the overriding objective, there must be finality. For these reasons, the

Claimant's application is refused.

Approved by:
Employment Judge Young

DATED 23 April 2026

JUDGMENT AND REASONS SENT TO THE PARTIES
ON 23 April 2026

FOR THE TRIBUNAL OFFICE