



# EMPLOYMENT TRIBUNALS

Claimant: Dzhan Kurt

Respondent: Sundrax Ltd

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The respondent's application dated 11 March 2026 for reconsideration of the judgment sent to the parties on 24 February 2026 is refused under Rule 70(2) of the Employment Tribunals Rules of Procedure 2024.

### REASONS

1. I have undertaken preliminary consideration of the respondent's application, together with the claimant's written response.

#### The Law

2. Rules 68 to 71 of The Employment Tribunal Procedure Rules 2024 (the "Rules") provide:

#### ***Reconsideration of judgments***

#### ***Principles***

68.—(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.*

**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.*

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).

4. Rule 70(2) empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

5. The importance of finality was confirmed by the Court of Appeal in *Ministry of Justice v Burton and anor* [2016] EWCA Civ 714 in July 2016 where Elias LJ said that:

“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (*Flint v Eastern Electricity Board* [1975] ICR 395) which militates against the discretion being exercised too readily; and in *Lindsay v Ironsides Ray and Vials* [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review.”

6. Similarly in *Liddington v 2Gether NHS Foundation Trust* EAT/0002/16 the EAT chaired by Simler P 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 Rules, preliminary consideration under Rule 70(2) must be conducted in accordance with the Overriding Objective which appears in Rule 3.

## The Application

8. Mindful that preliminary assessment of an application for reconsideration must be carried out in accordance with the Overriding Objective, which requires that cases are dealt with fairly and justly, I have given full and proper consideration to the grounds set out by the respondent. I conclude the following:

8.1. It is not necessary in the interests of justice to grant the respondent's application. There is no reasonable prospect of the original decision being varied or revoked, because where a tribunal finds a complaint under section 23 Employment Rights Act 1996 to be well-founded, section 24 of the same Act provides that the tribunal "shall order the employer to pay to the worker the amount of the deduction". This refers to the wage that was withheld, which is necessarily the gross wage.

8.2. The sums ought to be calculated on a gross basis, since they will be taxable under section 62 Income Tax (Earnings and Pensions) Act 2003.

8.3. The respondent has provided no documentary evidence that income tax and national insurance have been paid.

## Conclusion

9. Having considered all the points made by the respondent I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The points of significance were considered and addressed at the hearing. The application for reconsideration is refused.

Approved by

**Employment Judge Wilson**

20 April 2026

JUDGMENT SENT TO THE PARTIES ON

21 April 2026

FOR THE TRIBUNAL OFFICE