



EMPLOYMENT TRIBUNALS

Claimant: Mr Jonathan Owen

Respondent: Alstrom Transport (UK) Ltd

DECISION ON RECONSIDERATION APPLICATION

The claimant's application dated 7 May 2026 for reconsideration of the judgment approved on 23 March 2026 and sent to the parties on 28 April 2026 is refused.

REASONS

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

1. Rule 69 of the Employment Tribunal Procedure Rules 2024 ("ET Rules") requires that an application for reconsideration is made within 14 days of the written record of judgment being sent to the parties. The claimant's application for a reconsideration was received on 7 May 2026 which was within that period so is made in time.
2. The initial process for reconsideration is set out in rule 70 of the ET Rules:

"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."

Paragraph 6 of the Practice Direction of the Senior President of Tribunals on Panel composition in the Employment Tribunals and Employment Appeal Tribunal dated 29 October 2024 provides

"6. In respect of any other matter an Employment Tribunal is to consist of a judge. This includes consideration of whether a party's application for reconsideration discloses a reasonable prospect of a judgment being varied or revoked.

This initial application for reconsideration has therefore been considered by Employment Judge Flood alone.

3. The application for reconsideration appears to be made on the basis that on 21 October 2025 the claimant applied to amend his claim to change it from 'unfair dismissal' to 'constructive dismissal' and that this application was not considered before his complaint of unfair dismissal was struck out by a judgment made on 28 March 2026.
4. The claimant is correct that this amendment application does not appear to have been addressed before the unfair dismissal complaint was struck out. However this would have made no difference to the decision to strike out the underlying complaint of unfair dismissal. There is no freestanding legal complaint of 'constructive dismissal'. That is a term used to describe a dismissal in the circumstances set out in section 95 (1)(c) of the Employment Rights Act 1996 ('ERA'). That is where an employee resigns in circumstances in which he is entitled to terminate the contract by reason of the employer's conduct. Showing that there has been a 'constructive dismissal' is a means of establishing that a dismissal has occurred which could then form the basis of another legal complaint. The complaint that was struck out, that of unfair dismissal contrary to section 94 of the ERA is the same underlying complaint whether the dismissal was an express dismissal (within section 95 (1)(a) ERA); the end of a fixed term contract (within section 95 (1)(b) ERA) or a 'constructive dismissal within section 95 (1) c) ERA.
5. The claimant in his own claim form states that he was employed between 3 July 2023 and 30 June 2025, just short of 2 years. The response provided by the respondent suggests that the claimant resigned following completion of his period of notice on 30 June 2025. Section 108 ERA requires a claimant to have not less than two years' service to make an unfair dismissal complaint. This is the same whether the complaint is based on an 'actual' dismissal or a 'constructive' dismissal. The claimant was asked by a letter sent on 14 January 2026 to give reasons why his unfair dismissal complaint should not be struck out on this basis. The response he provided was that his claim was for 'constructive dismissal due to discrimination (Disability)' stating that this does not have a 'minimum employment period'. He further stated that he worked for 'almost 2 years' and had worked previously 'as a contractor'.
6. This information was considered in deciding whether the claimant had shown whether his complaint of unfair dismissal should be struck out or not. Nothing that was said by the claimant suggested that there was any reason why the unfair dismissal complaint should not be struck out for want of jurisdiction (given the acknowledgment that he did not have 2 years service).
7. However the strike out judgment of 23 March 2026 made it clear that the claimant's other complaints were not affected by the judgment. The claimant's claim form indicates that he wishes to bring a complaint of disability discrimination. Such a complaint has not been struck out by the judgment dated 26 March 2026. The precise formulation of that complaint in terms of what acts are relied upon (which may or may not include any 'constructive dismissal') and which sections of the Equality Act 2010 this is brought under will be discussed at the forthcoming preliminary hearing for case management listed for 21 July 2026.

8. Therefore having considered the matters raised, there is nothing in the application which indicates that it is in the interests of justice to re-open matters for a reconsideration. The discretion to refuse the application for reconsideration is therefore exercised as there is no reasonable prospect of the judgment being varied or revoked. The claimant's application for a reconsideration is therefore rejected.

Employment Judge Flood
Approved on 14 May 2026
JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE