



EMPLOYMENT TRIBUNALS

Claimant: Mr. Robert Pogonowski

Respondent: Royal Mail Group Ltd

Heard at: Bristol Employment Tribunal (by CVP) **On:** Tuesday, 7 July 2026

Before: Employment Judge M. Salter

Representation:

Claimant: In person (assisted by a Polish interpreter, Mr. M. Adam)

Respondent: Ms. Cannell, solicitor, Weightmans LLP

JUDGMENT

The Claimant's application dated 22 September 2025 for reconsideration of the Judgment sent to the parties on 9 September 2025 is refused.

REASONS

References in square brackets below are unless the context suggests otherwise to the page of the bundle. Those followed by a with a § refer to a paragraph on that page and references that follow a case reference, or a witness' initials, refer to the paragraph number of that authority or witness statement.

References in round brackets are to the paragraph of these reasons or to provide definitions.

INTRODUCTION

1. These are my reasons given orally at the final hearing on 7th July 2026.
2. The Employment Tribunal is required to maintain a register of all judgments and written reasons. The register must be accessible to the public. It has recently been moved online. All judgments and reasons since February 2017

are now available at: <https://www.gov.uk/employment-tribunal-decisions>. The Employment Tribunal has no power to refuse to place a judgment or reasons on the online register, or to remove a judgment or reasons from the register once they have been placed there. If you consider that these documents should be anonymised in any way prior to publication, you will need to apply to the Employment Tribunal for an order to that effect under Rule 49 of the 2024 Rules. Such an application would need to be copied to all other parties for comment and it would be carefully scrutinised by a judge (where appropriate, with panel members) before deciding whether (and to what extent) anonymity should be granted to a party or a witness.

3. These reasons have been prepared at the request of the Claimant.
4. This is a reconsideration of the Judgment sent to the parties on 9 September 2025, which followed the preliminary hearing on 4 August 2025, pursuant to rules 68 to 71 of the 2024 Rules. The reconsideration proceeds on the application of the Claimant dated 22 September 2025 (rule 69). I determined the application at a hearing held by video under rule 46 of the 2024 Rules.
5. The Claimant appeared in person, assisted throughout by a Polish interpreter, Mr. M. Adam, arranged by the Tribunal. I was satisfied that the Claimant was able to follow the hearing and to take part in it with the interpreter's assistance. The Respondent was represented by Ms. Cannell, solicitor. I considered the Claimant's application of 22 September 2025, his further email of 21 October 2025, the Respondent's written response of 13 October 2025, my original Judgment, and the documents in the agreed bundle.

The Judgment Under Reconsideration

6. The claim was presented on 13 September 2024. It is a complaint of constructive unfair dismissal: the Claimant's case is that he was compelled to resign while absent on sick leave for which he holds the Respondent responsible. The Respondent contends the Claimant throughout his employment would fail to engage with it during his absences, necessitating actions by it. Then the Claimant would re-engage.

7. In early 2025 there was correspondence between the parties and the Tribunal about whether the Claimant had also brought a claim of disability discrimination. The claim has never been determined on its merits.
8. On 4 August 2025 the claim came before me at a preliminary hearing for case management, it was to be conducted by video. The Claimant did not attend and was not represented. There was no explanation for his absence before the Tribunal. There was no telephone number on the file by which the Tribunal could reach him. In the lead up to the hearing he had not been in contact with the Respondent since 9 June 2025, nor with the Tribunal since March 2025. Having waited for the Claimant, and there being no contact from him during the sitting, I considered the material before me and dismissed the claim under rule 47 of the 2024 Rules, which permits the Tribunal to dismiss a claim where a party, this case the claimant, fails to attend.
9. The Judgment was sent to the parties on 9 September 2025. The covering letter, as standard, told the Claimant that, if he wished the Judgment to be reconsidered, he had to apply in writing within 14 days of the date on which it was sent to him.

The Application for Reconsideration

10. By email of 22 September 2025 the Claimant applied for the Judgment to be reconsidered. He explained his absence on 4 August 2025 as the result of a misunderstanding of the email that contained the instructions for joining the hearing, and of his then losing that email among his correspondence. He said that he had been waiting by the telephone for the hearing to begin.
11. By a further email of 21 October 2025 the Claimant added that he is unrepresented; that he had for some time been unable to secure the assistance of his trade union for the hearing; and that he is not a lawyer and knows little of employment law. He asked that those responsible for his treatment should face some consequence, and that the Tribunal should decide the matter according to law.
12. On an initial consideration under rule 70(2) of the 2024 Rules I could not say that the application had no reasonable prospect of success, and I directed

that it proceed. The Respondent opposes the application. In its written response of 13 October 2025 it contends that the Claimant has not explained why it is in the interests of justice for the Judgment to be reconsidered; that he had a fair opportunity to present his case and did not take it; that his explanation is unparticularised and internally inconsistent; and that no hearing was necessary in the interests of justice.

Findings of Fact

13. The reconsideration turns on the reason for the Claimant's non-attendance on 4 August 2025. On those matters I heard the Claimant's oral, interpreter-assisted account. He told me
 - (a) He knew that there was a hearing on 4 August 2025. He had been notified of it about three months in advance [49-50]. On the morning of the hearing he had his telephone with him and was, as he told me, waiting for the hearing to begin. He was looking for the email that contained the joining instructions, which he could not find among the correspondence he had received from the Tribunal and the Respondent. He told me he had a lot of correspondence from the Tribunal and Respondent
 - (b) he did not telephone or email the Tribunal on the day of the hearing.
 - (c) he did not telephone or email the Respondent.
 - (d) he did not contact either the Tribunal or the Respondent after the hearing. His first contact of any kind after 4 August 2025 was his application of 22 September 2025, some six weeks later.
 - (e) he believed he had already lodged all the material he needed, and that, not having attended, he expected the Tribunal to determine the case on his papers in his absence, and was awaiting the result.
14. The Claimant had the means to make contact. He had received a good deal of correspondence from the Tribunal and the Respondent, and that correspondence carried contact details. He could have telephoned or emailed the Tribunal. He had also had the assistance of a representative of the Communication Workers Union, Mr. Cozens, to whom he could have turned, even though that representative had told him that the union would not assist with the substance of his claim.
15. As to the merits of the underlying claim, I am not able to assess them with any confidence. The claim is not clearly pleaded, for which I do not criticise the Claimant, who is not a lawyer, and much of the correspondence appears to concern a claim that he may not in fact have brought. Taken at its highest,

the claim of constructive unfair dismissal is one that could be advanced, but it is factually in dispute.

The Law

16. The power to reconsider a judgment is contained in Part 12 of the 2024 Rules.

So far as relevant, rules 68 to 71 provide:

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.

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 no later than 14 days of the later of-

- (a) the date on which the written judgment sought to be reconsidered was sent to the parties,
- (b) the date that any written summary reasons were sent, if these were sent separately from the judgment, or
- (c) the date that any written full reasons were sent, if these were sent separately from the judgment.

70 Process for reconsideration

- (1) The Tribunal must consider any application made under rule 69.
- (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 must be received, 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.

- 17. The discretion to reconsider under rule 68(1) arises only where it is necessary in the interests of justice to do so. That discretion is not open-ended. In Ministry of Justice v Burton [2016] EWCA Civ 714, [2016] ICR 1128, the Court of Appeal held that it must be exercised having regard to the importance of finality in litigation. A losing party's dissatisfaction with the outcome is not, of itself, a reason to reconsider. The interests of justice are those of both parties, and not only those of the party who applies.
- 18. A party who consciously chooses not to attend a hearing must ordinarily take the consequences of that choice. Where the absence is of that innocent character, reconsideration may well be necessary in the interests of justice; where it reflects a decision not to engage with the proceedings, it is not. The reason for the absence, and its effect on the fairness of the hearing, are central to the question.

Analysis and Conclusions

Was the application made in time? (rule 69)

- 19. The Judgment was sent to the parties on 9 September 2025. The Claimant applied on 22 September 2025, which is 13 days later and so within the 14 days allowed by rule 69. The application was made in time, and no question of extending time arises.

Is it necessary in the interests of justice to reconsider? (rule 68(1))

- 20. The application turns on the Claimant's explanation for his non-attendance on 4 August 2025. I have weighed the matters I was addressed on, that tell for and against reconsideration, keeping the importance of finality in mind throughout.
- 21. Several matters tell in favour of reconsideration.
 - (a) The Claimant is a litigant in person whose first language is Polish and who required an interpreter, and who had been unable to secure representation.

- (b) His account, that he misunderstood and then could not find the email containing the joining instructions, is on its face an innocent mishap rather than a defiance of the Tribunal.
- (c) In his claim form he had stated that he had unsuitable internet access and could not take part in video or telephone hearings. He applied in time. And
- (d) the claim has never been determined on its merits: the dismissal under rule 47 followed from his non-attendance and not from any assessment of the claim.

22. Weighing against reconsideration are the following matters.

- (a) Finality in litigation is important.
- (b) The Claimant knew of the hearing, having been notified of it about three months beforehand.
- (c) On his own account he had his telephone with him and was waiting for the hearing to begin.
- (d) He did not contact the Tribunal or the Respondent on the day, whether to report a difficulty in joining or to seek help, although he had correspondence that carried the means of contact and could have found a number.
- (e) He did not contact the Tribunal or the Respondent after the hearing. His first contact came six weeks later.
- (f) He had had the assistance of a union representative to whom he could have turned. And
- (g) his stated belief, that having lodged his papers he could simply await a decision in his absence, indicates he was content for the matter to be determined without his engagement.

23. The question is whether the Claimant's account shows that he was, in substance, deprived of a fair opportunity to be heard, or whether it shows a failure to engage with proceedings that he knew were on foot. On the matters above, I think it shows the latter. The Claimant knew of the hearing. Yet he took no step, on the day or for the six weeks that followed, to contact the Tribunal or the Respondent and see what had happened. A difficulty in locating a single email does not account for that prolonged silence, or for any action on the day. His own explanation, that he expected the case to be decided on his papers in his absence, confirms that his non-attendance and/or non-engagement after the hearing is a reflection of a choice he had made.

24. I have not left the merits of the claim out of account. But the claim is not clearly formulated, it is factually in dispute, and I can put its value no higher than that it is a claim that might be advanced. That does not carry sufficient weight to displace the matters set out above. I do not the similarity in what

the Respondent complains of (the claimant's non-engagement with them during his employment) and the situation at the hearing in August 2025.

25. Weighing the importance of finality in litigation against the consequence that the claim would be finally disposed of without any consideration of its merits, I am not satisfied that it is necessary in the interests of justice to reconsider the Judgment. The Claimant had a fair opportunity to attend the hearing on 4 August 2025 and to present his case, and he did not take it. Reconsideration is not a means of relieving a party of the consequences of his own decision not to engage.

Disposal (rule 68(2) and (3))

26. It follows that the Claimant has not satisfied me it is in the interest of justice to reconsider my judgment. The Judgment is confirmed under rule 68(2). No question of varying or revoking the Judgment, or of taking the decision again under rule 68(3), arises.

Employment Judge M. Salter

Date: Friday, 31 July 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON
14 August 2026

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.