



EMPLOYMENT TRIBUNALS

Claimant: Mr O B Ogedegbe
Respondent: Regulux Transport Ltd
Before: Employment Judge Heather

JUDGMENT ON APPLICATION FOR RECONSIDERATION OF THE JUDGMENT ON COSTS

The judgment of the Tribunal is as follows:

1. The claimant's application for reconsideration of the judgment on costs is refused.

REASONS

The claimant's request for reconsideration

1. The claimant sent correspondence to the Tribunal on 6 August 2026 headed "Appeal Against Cost Order on 15 July 2026". Although the claimant's correspondence is dated 6 August 2026 it was received by the Tribunal on 12 August 2026.
2. The claimant's correspondence gives the following reasons for "appealing" against the judgment on costs:
 - 2.1 the application for costs was dealt with prior to written reasons being provided for the liability judgment;
 - 2.2 the Tribunal previously acknowledged that the claimant had limited financial means and made a deposit order requiring payment of £2;
 - 2.3 parties in the Employment Tribunal usually pay their own costs;

- 2.4 it was the respondent's decision to be legally represented;
 - 2.5 the respondent has a lot of money;
 - 2.6 the claimant does not have the financial means to pay the respondent's legal costs;
 - 2.7 the judgment on costs states that the claimant's behaviour during the hearing did not warrant a costs order being made;
 - 2.8 the liability decision was based on hearsay evidence;
 - 2.9 the Tribunal has refused to send full written reasons for the liability judgment to the claimant to prevent him from lodging an appeal because the Tribunal is aware that the Employment Appeal Tribunal will allow an appeal because the liability judgment was based on inadmissible hearsay evidence;
3. The claimant has not copied his correspondence of 6 August 2026 to the respondent.

The relevant law and legal principles

- 4. The Tribunal does not have jurisdiction to determine an appeal against a Tribunal decision. Any appeal must be directed to the Employment Appeal Tribunal.
- 5. Rule 68 of The Employment Tribunal Procedure Rules 2024 ("the Rules") sets out that the Tribunal may reconsider any judgment where it is necessary in the interests of justice to do so. If a judgment is reconsidered the decision may be confirmed, varied or revoked.
- 6. Rule 69 of the Rules provides that an application for reconsideration under Rule 68 must be made in writing (and copied to the other parties) within 14 days of the date on which the decision was sent to the parties.
- 7. The process by which the Tribunal considers an application for reconsideration is set out in Rule 70 of the Rules. Rule 70 (2) sets out that where an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked the application shall be refused and the Tribunal shall inform the parties of the refusal.
- 8. Guidance as to how to approach applications for reconsideration is set out in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/002/16/DA. Simler P said (at paragraphs 34 and 35:

“...a request for reconsideration is not an opportunity for a party to seek to re-litigate matters which have already been litigated or to reargue matters in a different way or 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. Tribunals have a wide discretion whether or not to order reconsideration.

Where ... a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interest of justice and asserted error of law is to be corrected on an appeal and not through the back door by way of reconsideration.

9. Rule 90 of the Rules provides that when a party sends communication to the Tribunal that party must send a copy to all other parties and state that it has done so.

Conclusion and decision

10. As the claimant has repeatedly indicated that he wishes to challenge the liability judgment before the Employment Appeal Tribunal, I am satisfied that the claimant is aware that an appeal ought to be directed to the Employment Appeal Tribunal rather than to the Tribunal. As the claimant's correspondence is directed to the Tribunal and not the Employment Appeal Tribunal, I have decided to treat the claimant's correspondence as a request for reconsideration of the judgment on costs.
11. The judgment on costs was sent to the parties on or around 31 July 2026. Accordingly, the claimant's application for reconsideration of the judgment on costs was received in time.
12. The claimant's application for reconsideration of the judgment on costs was not copied to the respondent. I consider that it is just to waive that requirement in accordance with the general discretion that the Tribunal has under Rule 6. It is just because there will be no prejudice to the respondent if I waive that requirement.
13. I have had regard to the overriding objective and considered the application fairly and justly. There is no reasonable prospect of the original decision being varied or revoked because:

- 13.1 the timing of the preparation of full written reasons for the liability judgment is irrelevant to the validity of the decision made by the Tribunal in relation to the respondent's application for costs. I reject the claimant's assertion that reasons were withheld in order to prevent him from pursuing an appeal. There is no evidential basis for that allegation;
- 13.2 the assessment and conclusion of Employment Judge Jeram as to the claimant's financial means at an earlier part of the proceedings in relation to a deposit order is not binding on me when dealing with application for costs at the conclusion of proceedings. The Tribunal is required to make reasonable enquiries regarding the depositor's financial means when making a deposit order (Rule 40 (2) of the Rules). When deciding whether to make a costs order the Tribunal has a discretion as to whether or not to have regard to the financial means of the paying party (Rule 82 of the Rules). I considered the issue of the claimant's financial means but concluded, for the reasons set out at paragraph 34 of the judgment on costs, that the limited information available did not justify reducing the costs award or declining to make a costs order. The fact that Employment Judge Jeram fixed the deposit at a nominal sum reflected the assessment of the claimant's means at that time for the purposes of Rule 40. It did not determine whether a costs order should later be made under Rule 74 or what weight should be given to the claimant's means under Rule 82;
- 13.3 the Tribunal has jurisdiction to make a costs order in prescribed circumstances. The frequency with which costs orders are made is irrelevant to the determination of the respondent's application. The financial means of the receiving party is not a relevant consideration. The fact that the respondent chose to be legally represented is relevant to whether a costs order can be made but is not relevant to the decision to make a costs order;
- 13.4 the respondent's application for costs was made on two bases. Firstly, that the claims had no reasonable prospects of success and secondly that the claimant acted unreasonably in continuing to pursue the applications after the deposit order was made by Employment Judge Jeram. I made findings that the claims had no reasonable prospects of success and that the claimant had acted unreasonably in continuing to pursue the claims after the deposit order was made. I made findings that the claimant had not acted vexatiously and did not act in bad faith. I concluded that the threshold for making a costs order had been met on the basis that the claims had no reasonable prospects of success and the claimant had acted unreasonably in continuing to pursue the claims after the deposit order had been made;

- 13.5 contrary to the claimant's submission, the judgment on costs does not state that the claimant's behaviour during the final hearing did not warrant a costs order being made;
- 13.6 the claimant's challenge to the factual and legal correctness of the liability judgment does not provide a basis for reconsidering the costs judgment. The costs judgment proceeded on the basis of a subsisting judgment dismissing the claims. Unless and until that judgment is varied or revoked on reconsideration, or set aside on appeal, it remains the operative judgment of the Tribunal and must be treated as such unless and until varied, revoked or set aside;
- 13.7 the Tribunal is not bound by the strict rules of evidence which apply in some other courts and tribunals. In any event, the correctness of the liability judgment is not a matter for determination on this reconsideration application.
14. In summary, the claimant's correspondence does not identify any error in the costs judgment itself. Most of the points raised are disagreements with the liability judgment. Whether the liability judgment was right or wrong is not an issue that can be determined through this reconsideration application. Those matters are for any separate reconsideration application concerning the liability judgment or any appeal.
15. Because I have concluded that there is no reasonable prospect of the judgment on costs being varied or revoked, the application must be refused.

**Approved by:
Employment Judge Heather**

26 August 2026

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