



## EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Mr J Treska

**Respondents**

and R1 – The Master & Fellows of University  
College Oxford  
R2 - University College Oxford

### **DECISION ON APPLICATION FOR RECONSIDERATION Rules 70-73 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**

1. The Claimant's application dated 27 January 2018 for reconsideration of the Decision on Application for Costs which was sent to the parties on 12 January 2018 is refused because there is no reasonable prospect of the decision being varied or revoked.
2. Reasons for this decision are attached.

### **REASONS**

Background

1. At a costs hearing held on 23 November 2017 at Reading (Employment Judge Vowles sitting alone) a Costs Order was made in favour of the Respondents in the sum of £11,196. The Claimant was ordered to pay this sum to the Respondents.
2. The decision was sent to the parties on 12 January 2018. The Claimant's application for reconsideration was received by e-mail timed at 00:00 on 27 January 2018. That was technically outside the 14 day time limit in rule 71 for presenting an application, but it is in the interests of justice to extend the time limit under rule 5.

Relevant Law

3. Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 -

*Rule 70 Principles*

*A 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. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.*

#### *Rule 71 Application*

*Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.*

#### *Rule 72 Process*

*(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge’s provisional views on the application. ...*

#### Claimant’s Application for Reconsideration

4. The application requested reconsideration of the decision and a reconsideration hearing on 3 grounds.
5. First, an administrative error by failing to take into account the material included in the e-mail to the Tribunal dated 24 November 2017 and failing to adjourn the hearing due to the Claimant’s health condition. The e-mail was (self-evidently) received after the decision was made at the hearing on 23 November 2017. However, it was received before the written decision was signed and it was therefore referred to in paragraphs 39 – 41 of the reasons for the decision. None of the matters in the e-mail was relevant to the costs decision. The decision was made in the absence of the Claimant but he was given sufficient advance notice of the hearing and failed to attend without good cause. He provided no information regarding his health condition before, during or after the hearing, other than stating he was “unwell”. That was not a sufficient reason for a postponement.
6. Also a failure to take account of the case management summary of Employment

Judge Lewis dated 26 March 2015. As set out in the reasons, the past case management orders were taken into account.

7. Second, new evidence. This consisted of a copy of part of the *University College Notes to the financial statements for the year ended 31 July 2015*. It does not appear to be relevant, nor is it “new” evidence.
8. Third, the interests of justice require reconsideration. This was not supported by any further explanation of why the interests of justice so require. There was no apparent denial of natural justice or administrative error.
9. Nothing has been raised which would merit reconsideration.
10. There is no reasonable prospect of the decision being varied or revoked.

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Employment Judge Vowles

Date: 20 February 2018

Sent to the parties on:

.....27 February 2018.....

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For the Tribunals Office