



# EMPLOYMENT TRIBUNALS

**Claimant**

**Mrs B M Nkekeh  
London**

**Respondent**

**College of North West**

## JUDGMENT ON RECONSIDERATION

### Rules 70 - 73 of the Employment Tribunal Rules of Procedure 2013

Upon the claimant's application made by email of 4 March 2018 to reconsider the judgment sent to the parties with reasons on 12 July 2016 under Rule 71 Employment Tribunal Rules of Procedure 2013 and without a hearing

- 1 The application has been made out of time and no grounds have been put forward for the tribunal to extend time.
- 2 Even if time had been extended, the application is refused as there is no reasonable prospect of the judgment being varied or revoked.

## REASONS

### Introduction

1. The claimant's complaints of discrimination, fixed term employee discrimination, unfair dismissal, redundancy pay, holiday pay and notice pay were all dismissed at a preliminary hearing on 1 July 2016 for lack of jurisdiction, having been presented out of time. Judgment was sent with reasons to the parties on 12 July 2016.
2. In summary, the time limit for presenting the claim form in this matter, after taking into account the early conciliation period, expired on 28 November 2015. The claim form was presented on 30 November 2015. The claimant, through her representative now applies to have that judgment reconsidered following the Supreme Court judgment in R (on the application of Unison) v Lord Chancellor [2017] UKSC 51. That judgment was given on 26 July 2017 and found the imposition of employment

tribunal fees some four years earlier had been unlawful. That case was very well publicised and has led to a significant increase in tribunal cases.

3. The email written on the claimant's behalf on 4 March 2018 asks that the judgment be reconsidered. I am reminded in that email of paragraph 14 of the preliminary hearing judgment where I mentioned an email having been sent to the tribunal by the claimant's representative on 27 November. I also found, in that paragraph that no ET1 was accepted at that time. It is suggested that there was a rejection of the claim form because of the need to pay a fee. The reconsideration application includes a copy of a letter from the tribunal to the representative dated 30 November rejecting a claim form. That letter sets out the three methods for presentation of a claim form – online; by post; by hand. It also mentions that a fee is required when presenting a claim form.
4. The respondent's representatives have been sent a copy of the claimant's application by the claimant's representative and sent their comments on 5 March. They submitted that the claimant's argument was misguided and flawed. They point out that the rejection was because there had been an attempt to present the claim form by email which was not one of the prescribed methods of presentation. They also point to the significant time delays, both from the preliminary hearing and from the Supreme Court judgment.

#### **The relevant rules**

5. I must consider the matter under the reconsideration rules in Employment Tribunal Rules of Procedure 2013 as above. There is a 14 day period from the date the judgment was sent for a party to apply in writing for reconsideration under Rule 71. Rule 5 does give a tribunal a general discretion to extend time.
6. Rule 70 provides for the judge to consider whether it is in the interests of justice to reconsider the judgment and, if so, they can confirm, vary or revoke that judgment.
7. Rule 72 (1) provides that an employment judge shall refuse the application if there is no reasonable prospect of the judgment being varied or revoked.

#### **Reconsideration conclusions**

8. This application is made almost 20 months since the judgment was sent to the parties. It is also made almost 8 months since the Supreme Court judgment. There have been no reasons given for these delays by the claimant's representative. I therefore do not extend time under Rule 5 and decline to consider the application.
9. For completeness though, I make this clear. Even if I had considered this application, it would have been bound to fail. It is not in the interests of justice to reconsider this judgment. There is no reasonable prospect of the

judgment being varied or revoked given that there are clear findings of fact that the claim form was presented on 30 November, two days out of time. The application for reconsideration is refused.

Dated  
22 March 2018

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**Employment Judge Manley, Watford  
South East Region**

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**Judgment sent to the parties on  
11 April 2018**

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**For the Tribunals**