

# THE INDUSTRIAL TRIBUNALS

CASE REF: 5722/18IT

**CLAIMANT:** Shauna McFarland

**RESPONDENTS:**

1. Morelli Ice Cream Limited
2. Remo Di Vito

## RECONSIDERATION JUDGMENT

### CONSTITUTION OF TRIBUNAL

**Employment Judge:** Employment Judge Browne

**Panel members:** Mrs C Stewart  
Mr D Walls

### JUDGMENT

1. As directed by Her Majesty's Court of Appeal, the Tribunal considered the application of the claimant to revoke its original decision to grant anonymity to the second respondent made under rule 66 of The Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020, which replaces the legislation under which the original decision was made, namely rule 49 of the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005.

### THE RELEVANT LEGISLATION

2. The relevant 2020 Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations are contained in Schedule 1 to the Regulations:

#### ***“Reconsideration of judgment***

- 64.** *A tribunal may, either on its own initiative or on the application of a party, reconsider any judgment (“the original decision”) where it is necessary in the interests of justice to do so.*

#### ***Reconsideration on tribunal’s own initiative***

- 65.** *Where the tribunal proposes to reconsider the original decision on its own initiative—*

- (a) it shall inform the parties of the reasons why the decision is being reconsidered; and*

- (b) *the original decision shall be reconsidered in accordance with rule 67(2) (as if an application had been made and not refused).*

### **Application for reconsideration**

- 66.** *Except where it is made at a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) —*
- (a) *within 14 days of the date on which the original decision was sent to the parties; or*
- (b) *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 in the interests of justice.*

### **Consideration of the application**

**67.** — (1) *An employment judge shall consider any application made under rule 66. If the employment 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 already been made and refused), the application shall be refused and the parties shall be informed of the refusal.”*

## **ISSUES RAISED AND CONCLUSIONS**

3. The parties agreed a proposed redacted wording of the original decision, subject to the approval of the Tribunal.

The agreed redacted wording was approved in its entirety by the Tribunal, which concluded that the contents of the redacted wording removes any requirement to order anonymity to the respondents; or to the claimant, who in any event was clear in her wish to waive her entitlement to anonymity.

4. The Tribunal therefore concluded, and so orders, that the original anonymity order does not apply except insofar as it relates to the revised wording contained in the redacted decision appended to and forming part of this reconsideration judgment.
5. The parties further agreed, and it is so ordered, that the contents of the Tribunal's unredacted original decision, and the applicability of the anonymity order to those unredacted contents, shall remain unaffected and unchanged, except for the approved redacted version.

**Employment Judge: T Browne**

**Date and place of hearing: 16 March 2022, Belfast.**

**This judgment was entered in the register and issued to parties on 19 May 2022**