



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A Tavahdi Kashi

**Respondent:** Optimal Engineering Design Limited

## **JUDGMENT ON APPLICATION FOR RECONSIDERATION**

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

### **REASONS**

1. The claimant has applied for a reconsideration of the judgment dated 21 March 2019 sent to the parties on 22 March 2019 ("the Judgment"). The grounds are set out in his a document attached to an email dated 7 April 2019 and received by the Tribunal on that date. The application was made following the provision of written reasons sent to the parties on the 5 April 2019.
2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 71 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time limit.
3. Under Rule 5 the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired.
4. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.

5. The grounds relied upon by the claimant are that there were points that had not been considered in the final judgment, to which the claimant wished to draw the Judge's attention. The claimant has set out parts of the judgment with which he disagrees and given detailed explanations of the reasons that he disagrees with the conclusions reached in each passage.
6. The Judge has read the claimant's document and has concluded that the claimant's application should be refused. The claimant had the opportunity to present all his evidence at the hearing. The fact that every detail of the evidence presented at the hearing was not included in the written reasons does not mean that the Tribunal did not consider all of the evidence to which it was referred. The Tribunal judgment was based on the totality of the evidence to which it was referred by the parties.
7. The matters raised by the claimant were considered in the light of all of the evidence presented to the Tribunal before it reached its decision. The Employment Appeal Tribunal ("the EAT") in *Trimble v Supertravel Ltd* [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in *Fforde v Black* EAT 68/60 the EAT decided that the interests of justice ground of review does not mean "that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order". This is not the case here. In addition it is in the public interest that there should be finality in litigation, and the interests of justice apply to both sides.
8. Accordingly I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

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Employment Judge Mulvaney

Dated 2 May 2019