



EMPLOYMENT TRIBUNALS

Claimant: Mr. M Doolan

Respondent: Citizens Advice South Lincs

JUDGMENT

The claimant's application dated 2nd May 2018 for reconsideration of the judgment sent to the parties on 1st May 2018 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The Claimant cannot bring a complaint of constructive unfair dismissal (i.e. alleging that he resigned because his employer was in repudiatory breach of contract) because he has less than 2 years continuous service with that employer. Section 108 Employment Rights Act 1996 requires Claimants bringing such complaints to have that minimum period of service and the Claimant has disclosed no facts to suggest that any of the exceptions to that position (i.e. a claim of automatically unfair dismissal) are applicable to the circumstances of the case. He therefore does not have the standing to bring a constructive unfair dismissal claim and it therefore has no reasonable prospect of succeeding.
2. The Claimant cannot bring a claim for breach of contract with regard to notice pay on the basis that it is contended that he resigned in response to a fundamental breach of contract because there is no dispute on the basis of the information available to the Tribunal that he gave and worked the period of notice that he appears to be claiming for. Any claim based on constructive wrongful dismissal would be pursued on the basis that the Claimant had resigned without notice in circumstances in which he was entitled to do so on account of the conduct of his employer. The remedy in such a claim would be for a sum equivalent to pay due for the notice period which would have been given but for the breach. There can therefore be no claim for notice pay as notice was given by the Claimant

and worked by him. That claim therefore had and still has no reasonable prospect of success.

3. The Claimant cannot bring a standalone claim in the Tribunal alleging that his former employer was in fundamental breach of contract and that this caused him to resign unless this is brought as a complaint of constructive unfair dismissal (for which he has no standing as set out above) or a complaint relating to notice pay (which has no prospect of success as set out above).
4. The Tribunal has no jurisdiction to deal with any complaint that the Respondent has misused public funds as referred to in the Claimant's Reconsideration application.

Employment Judge Heap

Date 11th May 2018

JUDGMENT SENT TO THE PARTIES ON

1 June 2018

FOR THE TRIBUNAL OFFICE