



EMPLOYMENT TRIBUNALS

Claimant: Mr M Ng'Ang'a

Respondent: Fusion People Limited

JUDGMENT

The claimant's application dated 24 December 2019 for reconsideration of the Judgment sent to the parties on 12 December 2019 is refused.

REASONS

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

1. In his application for reconsideration the claimant said that time constraints affected his ability to 'robustly present' his case and 'comprehensively table evidence'. As he acknowledges, the claimant did not ask for the hearing to be extended either before or at the hearing and in fact the evidence and submissions were comfortably completed within the hearing day. The claimant did not indicate that there was further or other evidence he wished to call. The only time issue discussed at the hearing was as to whether there would be time for me to deliberate and deliver judgment within the time available and I concluded that it was in the interests of justice for judgment to be reserved.
2. It is not in the interests of justice, given the need for finality in litigation, for the Judgment to be reconsidered on the basis of evidence which was or could with reasonable diligence have been available at the hearing and the claimant has given no clear account of what evidence he says was not available which would have made a difference to the outcome. He refers at numbered paragraph 4 of his application to metadata as to when the Broadbean document was created but it was open to him to make an application for the metadata either in writing or at one of the case management preliminary hearings. It was also open to him to ask for a postponement of the full merits hearing if he considered the evidence to be of importance. There was nothing in the Broadbean document itself or the surrounding evidence which suggests to me that the metadata was likely to have had an important influence on the outcome of the hearing.
3. The claimant refers at paragraphs 6 and 7 to evidence which was not adduced at the hearing and which shows a mistaken hourly rate for a post on the

Indeed website. The claimant could have but did not adduce this evidence at the hearing; in any event I consider it highly unlikely that this evidence would have had an important influence on the hearing.

4. Paragraphs 18 – 21 concern an item in the schedule of loss which the claimant indicated at the hearing was not being pursued in these proceedings. I was concerned to go through the schedule of loss carefully so that, if possible, and in the interests of both parties and proportionality, I could give a judgment on remedies at the same time as giving a judgment on liability. There was ample time left in the hearing day to consider the schedule of loss.
5. The item which the claimant says that he erroneously withdrew was not identified as a head of claim at the case management preliminary hearing in front of EJ Sharma on 7 June 2019 nor at the hearing in front of EJ Quill on 19 September 2019. I could not discern this claim in the claim form. In the circumstances, even had the claimant not indicated that this claim was being pursued in his other proceedings rather than in the case in front of me, it is not a head of claim which was before the Tribunal and I could not have determined it without a successful application to amend. No such application was made and I did not hear evidence or submissions on this head of claim. It is not in the interests of justice for these proceedings to be re-opened so that the claimant can pursue a new head of claim significantly out of time. No good reasons have been put forward by the claimant as to why he did not pursue this claim prior to or at the full merits hearing.
6. The rest of the application consists of submissions about the evidence which was in front of the Tribunal and about which findings of fact were made and conclusions reached on the basis of those findings of fact. It is not in the interests of justice for the Judgment to be reconsidered so that the claimant has an opportunity to reargue these points.
7. For these reasons, there is no reasonable prospect of the original decision being varied or revoked.

Employment Judge JOFFE

Date 6 January 2020

JUDGMENT SENT TO THE PARTIES ON

6 January 2020

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FOR THE TRIBUNAL OFFICE