



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms S Harwood  
**Respondent:** Anchor Hanover Group

## JUDGMENT

The claimant's application dated **3rd February 2020** for reconsideration of the judgment sent to the parties on **13th January 2020** is accepted out of time but is refused.

## REASONS

1. I am prepared (notwithstanding that it has not been copied to the Respondent) to extend time for making an application for reconsideration because the Claimant had given notice in time of her intention to apply and the delay is not at all excessive.
2. There is however no reasonable prospect of the original decision being varied or revoked.
3. The issue in this case is whether or not the Claimant resigned in response to a fundamental breach of contract. I held having considered all the available evidence and taking into account what inferences, if any, I might draw from the absence of evidence on any point, that she had not.
4. I made appropriate case management decisions at the hearing as to what relevant evidence I should admit, and this included accepting evidence from the Claimant which had not been submitted in the proper form.
5. The Claimant's primary case is that she resigned because she was wrongly accused, and deliberately so, of having caused an injury to a resident, namely a black eye
6. In summary the evidence was that the Claimant did not raise an allegation of a second injury to MH until after the first disciplinary hearing. When she did raise the matter it was investigated, and certainly I could find no criticism of the appeal officer Miss Ingle, in this regard. Miss Ingle upheld the imposition of a final written warning on the basis that the Claimant need only

- have been responsible for the admitted injury, a graze or cut to the temple, to have warranted that disciplinary sanction.
7. The only evidence which the Claimant could produce to substantiate her belief that there had been second incident where MH sustained the more extensive injuries was second-hand hearsay. Her two witnesses to the fact that a second fall had allegedly been reported were, however, unable to give any conclusive evidence that any incident had in fact taken place when the Claimant says it did, and not at some later date. There was, however, clear photographic evidence of a black eye within a very short time of the admitted incident in which the Claimant was involved.
  8. The two witnesses' evidence was firstly considered by Miss Ingle and on the statements taken at the time was no clearer then than it was when called before me.
  9. The alleged "new evidence" that may suggest that one of those witnesses, Ina Joyce, might in fact have been on duty shortly after the incident with the Claimant so that she might have been recalling a conversation about a second fall which took place at that time would not materially affect my findings. There is evidence to the contrary, indicating that Mrs Joyce was not working at the material time, and more importantly I have heard her oral evidence that she cannot and does not confirm the date of any thing she heard reported.
  10. There is no reasonable prospect if given a "second (of if one includes the internal appeal hearing, a third) bite of the cherry" that the Claimant will now be able to prove that there was indeed a second accident so that the initial accusation, which was not however necessarily relied upon by Miss Ingle, was knowingly false
  11. I do not understand the reference to a sicknote for the Claimant's son (also S Harwood) which has found its way into the evidence by mistake. Such an error is most likely to have been that of the Claimant herself in providing the wrong sick note to the Respondent. This is, in any event, in no way material to my decision. The Claimant resigned with immediate effect and the production of any sicknote at the same time does not alter that fact, whether that was what she really intended that is the only proper interpretation of her written notice.

Employment Judge **Lancaster**  
Date 7<sup>th</sup> February 2020

JUDGMENT SENT TO THE PARTIES ON  
Date 10<sup>th</sup> February 2020