



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms N Winter

**Respondent:** OTGL Ltd

## JUDGMENT

The respondent's application dated **4 March 2020** for reconsideration of the judgment sent to the parties on **3 February 2020** (with reasons sent 20 February 2020) is refused.

## REASONS

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

1. The Respondent wants to rely on new evidence, being a document alleged to be a print out of WhatsApp exchanges, and a document alleged to be a print out of time off taken by the Claimant. There is no explanation for why the evidence was not brought to the hearing. The new evidence could not be taken into account (as going to credibility, or for any other reason) in the absence of a further hearing at which the Claimant was questioned. The Respondent's allegation that there was a breach of contract if the Claimant worked from home is a new allegation, not raised previously. In any event, it is not proportionate and not in the interests of justice to set aside the existing judgment solely to re-open the evidence on a comparatively minor point, and even if this minor point were to be resolved in the Respondent's favour, it is not self-evident that it would lead to a different overall outcome.
2. The Respondent alleges that no evidence of days taken as holiday was provided. It was common ground that 12 July 2019 was a holiday. The Claimant testified, and was not challenged on the assertion, that from the start of employment to 30 June 2019, she had taken one day's holiday. As per the written reasons, based on the evidence presented at the hearing, my decision was that 1 July to 11 July was not holiday and was not unpaid leave.
3. The Respondent asserts that there was no evidence that the Claimant attended the workplace. The Claimant testified that she did so, and the Respondent presented no evidence (either oral testimony or documents) to the contrary at the hearing.

4. No new claim was presented by the Claimant during the hearing. The relevant matters were set out in the judgment and reasons. The Respondent knew in advance of the hearing that there was a dispute about whether the Claimant had been paid correctly, including for a sum in lieu of holiday. It therefore knew, or ought to have known, that if judgment was in the Claimant's favour, there would be decisions to be made, and calculations to be done, to assess the amount(s) of money due to the Claimant. The Respondent was invited during the hearing to put forward its own methodology.
5. The resignation email dated 12 July 2019, the Respondent's response to that dated 19 July 2019, and the Claimant's email of 7 August 2019 were all considered at the hearing, and, to the extent that they are relevant, were addressed in the reasons. It was common ground that the Claimant's employment terminated with effect from 12 July 2019.

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Employment Judge Quill

Date 16 March 2020  
JUDGMENT SENT TO THE PARTIES ON

17 March 2020

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FOR THE TRIBUNAL OFFICE