



EMPLOYMENT TRIBUNALS

Claimant: Ms C Father

Respondent: Lewisham Counselling and Counsellor Training Associates

Before: Employment Judge Cheetham QC

APPLICATION FOR RECONSIDERATION

1. The application for reconsideration is refused.

REASONS

1. At a Preliminary Hearing held on 28 November 2019, I held that the Claimant was at all times self-employed and working under a contract for services with the Respondent. Her claim to the Employment Tribunal was therefore dismissed.
2. On 7 February 2020, the Claimant applied for reconsideration of that Judgment. For reasons that are unclear, but may – in part – be related to the upheavals caused by Covid-19, her emailed application was not “opened” until 20 July, when it was forwarded to me. I apologise to the Claimant for this considerable delay, which should not have occurred.
3. In the application for reconsideration, the Claimant has advanced a number of arguments. First – as below – she has relied upon *Uber BV v Aslam* [2019] ICR 845, CA, but to make the point that a tribunal should disregard the terms of any document generated by the employer that did not reflect the reality of what was occurring. The Tribunal had to examine all of the circumstances, of which the written document is only a part. I agree with that argument, but in my judgment, the written documents did reflect the reality of what was occurring.

4. Secondly, it is argued that I disregarded the fact that the Claimant's work for Renaissance was of a different nature, as it was client-facing, rather than training. However, it was the Claimant's own evidence that, "*there was no difference between being self-employed at Renaissance and working at Lewisham (i.e. the Respondent)*". It was the Claimant who drew the comparison, which – if not determinative – was a relevant factor.
5. The third argument is (in terms) a summary of the Claimant's case regarding the control exercised. I found that the courses had to meet the standards and criteria set by the regulating body, which can hardly be contentious. Inevitably, that meant the Respondent had to ensure that those presenting the courses did so in a way that would achieve that standard. In my view, that element of control was a necessity, in the same way as requiring tutors to attend for their classes at certain times on certain days was a necessity. It did not, however, mean that the Claimant worked under a contract of service.
6. Fourthly, the Claimant has raised an argument about "helping out" at residential weekends, but I have made findings of fact about this and about travel expenses and there is nothing in the application that suggests that they need to be revisited.
7. Finally, the Claimant has argued that the Respondent was not a contractor to the BACP. In fact, in the reasons, I have referred to how the Respondent's witness described the relationship between the Respondent and the BACP, without making a specific finding. That relationship was not in issue and it did not determine the relationship between the Respondent and the Claimant, which was in issue.
8. The application for reconsideration does not disclose any reason to suggest that there is a reasonable prospect of the judgment being varied or revoked and is refused.

Employment Judge Cheetham QC

Date 2 August 2020