



EMPLOYMENT TRIBUNALS

Claimant: Mr A Moussa

First Respondent: First Great Western Limited

Second Respondent: Mr D Haynes

Third Respondent: Mr B White

JUDGMENT

The claimant's application dated 24 August 2020 for reconsideration of the judgment made at the hearing of 3 July 2020 is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked, because the application does not seek this. It simply asks that a finding within the judgment is reconsidered.
2. With regard to that finding, very little of the information in the application is new information that was not available to me at the hearing.
3. What is new, is that Mr Singh is now arguing that the respondent should have recognised that the list of issues had omitted a key element of the claimant's claim. I do not consider this argument has any merit. The judge and the respondent's representative both appear to have thought that section 47B claim had been withdrawn and so believed the list of issues was correct. My finding on this point was:

"I find that the most likely explanation for the omission in the list of issues, on the balance of probabilities, is that its preparation was based on a misunderstanding at the preliminary hearing....."

4. I note that there is slightly more detail about the personal circumstances that led Mr Singh to delay raising his concern about the list of issues. While I have every sympathy with Mr Singh, I had, however, already taken into account his personal circumstances in reaching my finding. I concluded that as a professional representative, Mr Singh could have taken steps to prevent his personal difficulties having an adverse impact on his conduct of the case. What I meant by this was that conduct of the case should have been passed

to a colleague if Mr Singh was unable to manage it, or he should have ceased to act.

5. It is correct that the respondent refused to agree to any change in the list of issues when Mr Singh raised this with them on 28 February 2020. I agree that the respondent should perhaps have had more engagement with Mr Singh with regard to this concern. However, given that the respondent believed the section 47B case had been withdrawn, its position was not surprising.
6. My finding was that the unreasonable conduct by Mr Singh occurred before this and consisted of the delay in raising the matter with the respondent for six months. He then failed to bring the issue to the attention of the tribunal for a further month after it was clear there was a dispute between him and the respondent.
7. The impact of the delay has been that both parties have had to revisit the disclosure exercise and the preparation of witness statements when this work had already been completed.

Employment Judge E Burns
26 August 2020

JUDGMENT SENT TO THE PARTIES ON

18/11/2020

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FOR THE TRIBUNAL OFFICE