



EMPLOYMENT TRIBUNALS

Claimant: Mr J Dunne

Respondent: Lumina Investments Ltd

JUDGMENT

The Respondent's applications dated 3, 14 December 2020 and 21 January 2021 for reconsideration of the Judgment sent to the parties on 1 December 2020 is refused.

REASONS

1. There is no reasonable prospect of the original decision being varied or revoked for the following reasons.
2. In respect of the affidavit submitted for a Ms Jemma Price on 15 December 2020 the Respondent has not provided any evidence as to why that the evidence could not have been obtained with reasonable diligence for use at the original hearing.
3. In respect of the grounds set out in the application dated 21 January 2021 the following reasons are provided.

Holiday Pay

4. In respect of the two time sheets the Respondent seeks to introduce the Respondent has not provided any evidence as to why that the evidence could not have been obtained with reasonable diligence for use at the original hearing. The Respondent appears to be asserting that they were entitled to not pay the Claimant half of his holiday pay for the holiday year 2019/2020 as he was overpaid 433.5 hours for the previous year for the year 2019/2019. The Judgment of EJ Brace found that the Claimant was entitled to his annual salary of £20,000 regardless of what hours had been

worked by the Claimant. The Respondent is therefore seeking to reopen the findings of that Judgment by asserting that the Claimant should have holiday pay offset against hours allegedly not worked which directly contradicts the findings of EJ Brace. For these reasons the original Judgment in regards to holiday pay stands.

Paragraph 20

5. The Tribunal is entitled to accept evidence on a fit note from the Claimant's GP. There are no grounds in the application on which to conclude that the Claimant's evidence was flawed. Further, this finding of fact was not material to the conclusions and Judgment.

Paragraph 23, 24, 25, 31, 33, 36, 61.

6. The relevant evidence was heard at the hearing and recorded in the findings of fact as are the reasons why the Tribunal accepted the Claimant's evidence in paragraphs 36, 37 and 38.

Paragraph 28 and 35

7. The Respondent seeks to admit new evidence as to the reasons for Ms Evan's departure and why she did not attend to give evidence namely that she was also pursuing a claim against the Respondent and also the circumstances surrounding the issuing of the P45. The Respondent has not provided any evidence as to why that the evidence could not have been obtained with reasonable diligence for use at the original hearing. It is not in the interest of justice to admit this evidence and even if it was it is unclear to me why this would assist the Respondent.

Employment Judge S Moore

Date: 3 February 2021
JUDGMENT SENT TO THE PARTIES ON

3 February 2021

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FOR THE TRIBUNAL OFFICE