



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss H Flint

**Respondent** RLS Care Services Limited

## JUDGMENT ON A RECONSIDERATION

The respondent's application dated 15 February 2021 is treated as an application for reconsideration of the Judgment sent to the parties on 12 February 2021 is refused.

### REASONS

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

1. I have considered the respondent's application for reconsideration of the Judgment. The application was emailed by the respondent and received by the Tribunal on 15 February 2021. It consists of an email which alleges that the claimant was not employed by the "appellant", by which I understand that to be a reference to the respondent, RLS Care Services Limited. The email states that the employer and correct respondent is MarshBuild Limited.

#### Rules of Procedure

2. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application without convening a reconsideration hearing if I consider there is no reasonable prospect of the original decision being varied or revoked.
3. The test is whether it is necessary in the interests of justice to reconsider the Judgment (rule 70). Broadly, it is not in the interests of justice to allow a party to reopen matters heard and decided, unless there are special circumstances, such as a procedural mishap depriving a party of a chance to put their case or where new evidence comes to light that could not

reasonably have been brought to the original hearing and which could have a material bearing on the outcome.

### **The application**

4. The respondent in its email application repeats the assertion that the respondent was not the claimant's employer. The email application is sent from Daniel Jackson, Managing Director RLS Care Services Limited. It fails to explain on what grounds it is alleged that MarshBuild Limited was the claimant's employer and the correct respondent to the claim.

### **Background**

5. The respondent had submitted a blank ET3 but for the claimant's name and a copy of the notice of claim with the respondent's name crossed out and the words "not employed by RLS care employed by MarshBuild Limited tel 03333445044". Employment Judge Blackwell wrote asking the claimant to provide her comments on the respondent's assertion that it was not the correct respondent and asked her to provide a copy of her contract of employment or payslips to resolve this issue. The claimant by email of the 7 November 2020 sent a copy of a contract of employment dated 3 December 2019 which identified RLS Care Services Limited as her employer. A copy of the contract was sent to the respondent on 2 December 2020 and Employment Judge Ahmed directed that the respondent must complete a detailed defence to the claim by no later than 16 December 2020.
6. On 7 January 2020 Employment Judge Adkinson made an Unless Order that the respondent must send to the Tribunal and the claimant a completed detailed defence to the claim within 7 days. The respondent did not comply with that Unless Order and confirmation of dismissal of the response was issued confirming that the response had been dismissed on 15 January 2021 under Rule 38. The respondent was informed that it would only be permitted to participate in any hearing to the extent permitted by the Employment Judge.
7. The respondent was copied into the letter from the Tribunal listing the case for a hearing on 12 February 2021.
8. The claimant attended the hearing. The respondent did not attend. The respondent did not file with the Tribunal any documents, witness statements or representations whether in connection with the assertion that it was not the employer or otherwise in respect of the claim for unpaid holiday pay.
9. The claimant gave evidence at the hearing under oath, supported by a copy of her contract of employment, that the respondent was the correct

employing entity. Who the correct employer was considered by the Tribunal at the hearing and during its deliberations.

10. The respondent in its application for reconsideration has still not supplied any evidence to support its assertion that it was not the employer at the relevant time and therefore not the correct respondent.
11. There is no reasonable prospect of the respondent establishing that the Tribunal made an error of law, or that any of the conclusions on the facts were perverse.

**Conclusion**

12. Having considered all the points made by the respondent I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The application for reconsideration is refused.

Employment Judge Broughton

Date: 19 February 2021

JUDGMENT SENT TO THE PARTIES ON:

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FOR THE TRIBUNAL OFFICE