EMPLOYMENT TRIBUNALS

Claimant: **Mr Francis Chagas**

Respondent: **The London Borough of Enfield**

JUDGMENT ON RECONSIDERATION

The claimant's application by emails dated **22 and 27 October 2020** for reconsideration of the judgment, given orally on 22 October 2020 and by written judgment dated 2 December 2020 and sent to the parties with written Reasons on **30 December 2020,** is refused.

REASONS

1. By the judgment sent to the parties on 30 December 2020 the claimant's complaint of unlawful deduction from wages pursuant to sections 23 and 27 of the Employment Rights Act 1996 was dismissed.

2. By Rules 70-71 of the Employment Tribunal Rules of Procedure 2013 the parties may apply for reconsideration of judgments made by a tribunal. Except where it is made in the course of the hearing, the application shall be presented within 14 days of the date the written record of the original decision was sent to the parties or within 14 days the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.

3. The sole ground from which a judgment may be reconsidered is that it is necessary in the interests of justice to reconsider it.

4. By Rule 72(1) the Judge shall refuse the application if he considers that there is no reasonable prospect of the decision being varied or revoked.

5. In summary, the claimant applies for reconsideration of the judgment on grounds of alleged (initial) unfamiliarity of the judge with the case and inadequacy of the hearing by video through interrupted connection leading to difficulty to put the claimant's case properly and leaving him with a sense insecurity and uncertainty about the process.

6. I refuse the application because there is no reasonable prospect of varying or revoking my earlier decision.

7. As to the Claimant's specific points, the claimant's complaint about the conduct of the case arises in my judgment from his unfamiliarity with how these cases are typically conducted. Generally an employment tribunal judge (who will usually have been appointed on a random basis) will not before the hearing have read the entire file, (here, of more than 300 pages) which will often be sent to the Judge on the afternoon before or the morning of the hearing. The parties will, after an initial session, usually be invited to indicate significant documents for pre-reading by the Judge. This case was typical in that regard. If I had felt unable to cope with amount of material I would have adjourned the hearing to another date. I did not and the Judgment and Reasons indicate clearly to me that I had a sufficient understanding of the case to dispose of it fairly and justly. The claimant puts forward no grounds that create any doubt in this regard.

8. Further, neither I, nor the parties and their representatives, was in any sense impeded by the fact that the hearing was by video (CVP). In particular:

    (a) The claimant was represented throughout the 2-day hearing by counsel who took no objection to either the form of the hearing (by video) or to mechanical interruptions or disconnection as rendering the hearing unfair;
    (b) The hearing concerned in essence a legal point ie whether the claimant on the true construction of a contract, which was evidenced entirely by emails, was entitled to be paid for all "on call" hours, irrespective of whether he worked those hours. As appears from the Reasons and the Costs Judgment and Reasons, key aspects of the claimant's argument were in my judgment legally misconceived and the holding of the hearing in person (as opposed to be video) would not in my judgment have affected the outcome;
    (c) The same is true regarding electronic disconnections to which the claimant refers: it not unusual for there to be some connection problems in video hearings and were it to have interfered with the proper conduct of the hearing I would have adjourned the hearing. I did not and my Judgment and Reasons were unaffected by any such interference. The claimant's counsel was to my recollection in no way impeded in making the full submissions he made and he had he thought otherwise, I have no doubt that he would have made his position clear in that regard.

9. Reluctantly I must refuse the application on the additional ground that the application was not made within 14 days of the date the judgment and reasons were sent to the claimant, but before this period. I make clear

however, that my substantive reasons set out above are self-standing and apply, whether or not the application was made within that period

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Employment Judge **Bloch QC**

Date___22 February 2021_____

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE