



EMPLOYMENT TRIBUNALS

Claimant

Miss H Jones

Respondent

Open Age

AND

Heard at: London Central Employment Tribunal (by video)

On: 19 May 2021

Before: Employment Judge Palca

Representation

For the Claimant: In person

For the Respondent: Mr J Earle, of Counsel

JUDGMENT

The Judgment of the Tribunal is that The Claimant's application to the tribunal to review its decision made on 9 December 2019 is refused. The Judgment dated 9 December 2019 is confirmed, for the reasons given at the time.

The claimant argued that the hearing on 9 December had initially been scheduled for two days, and as a result she had not had time to prepare her case in relation to mutuality of obligation. She argued that there had been mutuality of obligation, relying on the case of Cornwall County Council v Prater [2006] IRLR 362. The respondent responded that the original judgment was "Meek compliant", and reached proper factual decisions. It was not obviously wrong. Relying on the case of Ministry of Justice v Burton in relation to the importance of the finality of litigation. While the claimant disagrees with my decision made on 9 December 2019 and the findings of fact, there have been no clear mistakes of fact or law. The claimant offers no explanation of why

the fresh evidence she has produced was not produced earlier. She has produced no new evidence that could not reasonably have been available at the original hearing. All the documents she produced were in her possession. The additional evidence she produced could have been obtained and produced to the employment tribunal at the original hearing. The claimant's new witnesses had ceased working for the respondent in July 2019 and therefore there was no reasonable obstacle to them giving evidence on behalf of the claimant at the previous hearing. Much of the contents of the claimant's new witness statement was in her previous statement. The tribunal concluded first that there was no reason why any new evidence could not have been produced at the original hearing, and second that there were no new facts or law which had been produced which required the tribunal to change the original decision. It is therefore confirmed.

Employment Judge Palca

Dated: 05/07/2021..

Sent to the parties on:

05/07/2021.

For the Tribunal Office