



EMPLOYMENT TRIBUNALS

Claimant: Mrs Sepi Sarabandi

Respondent: (1) API Engineering (O&G) Limited; and
(2) Mr Mike Robinson.

Before: Employment Judge Dobbie

JUDGMENT

The Respondents' application dated 9 August 2021 (but received on 13 September 2021) for reconsideration of the judgment sent to the parties on 18 June 2021 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked. Taking each point raised by the Respondents in turn, using the same paragraph numbering as the Respondents' application:

1. The Respondents' assertion that five months was ample time for the Claimant to find employment is without foundation or evidence. The Tribunal heard evidence and the Claimant was cross examined on her attempts to find alternative work. The Respondents did not provide any evidence of the availability of roles suitable for the Claimant in the area and therefore did not demonstrate that she had unreasonably failed to mitigate her losses.
2. The Respondents cross examined the Claimant on the work she had sought post dismissal. The Tribunal made findings that such work was not limited to the oil and gas sector and that she had considered a variety of roles (see paragraph 49 of the Reasons). The Respondents assert that she failed to mitigate but this has already been argued and determined and the Respondents have not presented any new evidence or new arguments to suggest that the decision was incorrect. Whilst the Second Respondent may have verbally announced that he had identified 40,000 roles available to the Claimant during the hearing, there was no evidence to substantiate this.

Further, there was no evidence to show that any such search was focused on appropriate roles in the appropriate location. It was mere assertion and the burden of proof rests on a Respondent to demonstrate a failure to mitigate.

3. The Claimant's statement of loss could tend to suggest that she had only applied for 12 roles in the 9-months post dismissal. However, the Claimant's oral evidence when cross examined on this was that she had been interviewed for 12 roles but had applied for many more (see paragraph 49 of the Reasons). Whilst her assertion as to the precise number of roles was not accepted, the Tribunal found that she had reasonably mitigated and accepted her evidence that the 12 roles listed were those she had been interviewed for, not merely applied for (see paragraphs 49-51 of the Reasons).
4. The Tribunal found that the Claimant focused her job search on a reasonable geographical location and, as stated above, that such search was not limited to roles in oil and gas. The assertion that she should have searched for roles across the whole UK is not accepted. This would require her to uproot her life and is not a reasonable expectation.
5. The Claimant gave evidence on oath that she had not obtained employment or other work by the date of the hearing. This evidence was accepted. Whilst she may have told Mr Baggott in September 2019 that she already secured a new role commencing January 2020 (about which the Tribunal makes no finding) by the date of the hearing in April 2021, she was able to testify as to what actually happened after termination, not what she said at some prior time. Further, she did give evidence that whilst she had almost secured some opportunities, they were cancelled as a result of the pandemic, which might explain any comment allegedly made.

Employment Judge Dobbie

Date: 01 October 2021

Sent to the parties on: 14 October 2021

For the Tribunal Office