



EMPLOYMENT TRIBUNALS

Claimant: Mr M Judge

Respondent: Centrica PLC

JUDGMENT

The claimant's application dated **24 August 2021** for reconsideration of the Judgment sent to the parties on **9 August 2021** is refused.

REASONS

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

- As set out at paragraph [32] of the Judgment, the claim had no reasonable prospect of success. The claimant relied on the fact that he had not been notified of a transfer from one bonus scheme to another. This is the same basis on which the claimant continued with his claim on 6 September 2020. The claimant acknowledged in that response and during the hearing, that both bonus schemes contained the same leaver clause. The fact that the claimant had not been notified of transfer from one scheme to the other had no bearing on whether he was entitled to payment of bonus should he leave before the payment of bonus.
- Regional Employment Judge Franey sought further information from the claimant before dealing with the respondent's application for a strike out/deposit order. Prior to the claimant responding to that request, the final hearing was listed for 9 November 2020. On receipt of the claimant's response on 6 September 2020, and in order to deal with the case proportionately, the matter was allowed to progress to a final hearing where the issue of prospect of success was raised before me.
- I did not make a finding that the claimant lied or altered the basis of his claim. Instead, at paragraph [42] I determined that the claimant had sufficient capacity to understand that there was no difference between the leaver clause in either bonus scheme. The claimant worked in an industry that required a sufficiently high level of capacity and would have been capable of understanding the terms of both schemes.

- The costs warnings sent by the respondent's representatives were not "drop hands" offers. Instead, the respondent's representatives pointed out the lack of merit of the claim in each costs warning rather than just asserting that the claimant was at risk of costs.
- Whether the claimant took legal advice was not a factor in my decision. I determined at paragraph [42] that the claimant had capacity to understand the bonus schemes. I also determined that once the claimant had the response, the request from Regional Employment Judge Franey and the costs warnings, he had the capacity to understand that there was no legal basis for his claim.
- During the hearing the claimant admitted that when he left the respondent's employment, he understood that he was in the OTIP scheme. Once learning that there had been a transfer between schemes, the claimant sought to bring a claim. The claimant continued with the claim after receipt of the response even though the respondent confirmed that the leaver clause in the new scheme was the same as the leaver clause in the old scheme. Therefore, after receipt of the response, the claimant was aware that he had no legal basis for his claim.
- Due to the short period of time between the claimant's response on 6 September 2020 and the date of the final hearing on 9 November 2020, there was no review of the file in accordance with rule 27 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.
- The acceptance of a claim does not require an assessment of the merits by a Judge. Following receipt of the response, in accordance with rule 26 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, an Employment Judge considers the claim form and response to establish if both are arguable and can seek further information for that purpose. Regional Employment Judge Franey performed the rule 26 function and sought further information in light of his concerns over whether the claim was arguable.
- The Rules of Procedure have been followed. There is no disagreement between Regional Employment Judge Franey and I and the Judgment is confirmed.

Employment Judge Ainscough

Date: 21 December 2021

Case No: 2405820/2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON

22 December 2021

FOR THE TRIBUNAL OFFICE