



EMPLOYMENT TRIBUNALS

Appellant: Melville Hall Hotel Ltd

Respondent: Isle of Wight Council (Environmental Health Service)

Heard at: Bristol **On:** 1st February 2022

Before: Employment Judge P Cadney

Representation:

Appellant: Written Submissions

Respondent:

Reconsideration Judgment

The judgment of the tribunal is that-

- i) The claimant's application to revoke or vary the Judgment on reconsideration is dismissed.

Reasons

1. On 28th July 2021 the appellant wrote seeking reconsideration of the Judgment entered affirming the three Prohibition Notices which were the subject matter of the three appeals. The basis was "evidence that was not taken into account.." although the evidence was not identified. On 7th September 2021 the claimant was written asking him to identify the evidence and how it would affect the conclusions. On 13th September 2021 he replied but unfortunately this has only recently been referred to the EJ and he apologises for the resulting delay in dealing with the application.
2. As a general point the claimant relies on arguments already raised before me at the original hearing. I can vary or revoke the judgment if it is in the interests of justice to do so, but that does not mean that a losing party has the right to a another bite at the cherry on the basis of arguments and evidence already

before the tribunal in the hope that it will be more successful on the second occasion.

3. In its application the appellant repeats the point that it has been the victim of a campaign against it on the part of the inspector Mr Fentum; or that he created confusion in respect of the chlorination of the various pools / hot tubs which caused the legionella problem and for which the appellant remains of the view the he was “entirely responsible”. It contends that the PNs issued in respect of the indoor pool and outdoor hot tub were deceptions designed to divert attention from Mr Fentum’s responsibility for the legionella in the indoor hot tub. As is set out in the original judgment I did not accept this contention, but accepted the evidence of Mr Fentum as to why both PNs were issued.
4. The evidence the appellant relies on relates firstly to the dispute as to the appropriate level of free chlorine residuals (which is addressed at paragraph 22 of the Judgment). The appellant maintains that it is right and the inspector was wrong to identify 3-5mg/l as the appropriate standard and refers to a letter from Mrs Clough of 12th July 2019 which he states supports his case and is not referred tin the Judgment.
5. In my judgement this does not affect the original judgment for the following reasons.
 - i) Firstly the dispute as to the appropriate free chlorine residual levels related to the indoor spa pool/hot tub (PN20-00004) against which the appeal was withdrawn. It is in any event discussed in the judgment (see paras 5 and 22) as it had been raised before me, as a consequence of which I addressed it in the judgment. However this dispute has no bearing on either of the appeals that were eventually pursued.
 - ii) Secondly in relation to the indoor pool (PN20 -00007) I accepted the Inspector’s evidence as to the reasons for issuing the PN (see paras 8-10) and concluded that for the reasons given he was entitled to issue it (para 28). These do not include any factor relating to the residual free chlorine level.
 - iii) Thirdly this issue appears equally to have no bearing on the PN issued in relation to the outdoor hot tub (PN20- 00008).
6. In addition the appellant reiterates his claim that he was the victim of a campaign of deception against him by Mr Fentum. In my judgement the documents he relies on do not alter my views as to this issue as expressed in the judgment (see paras 22 and 23).
7. It follows that in my judgement there is no basis for revoking or varying my original judgment and the application for reconsideration is dismissed.

**Case Number: 1400877/2020
1400878/2020
1400879/2020**

Employment Judge P Cadney
Date: 1 February 2022

Judgment sent to parties: 11 February 2022

FOR THE TRIBUNAL OFFICE