



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Toni Zinzan

**Respondent:** Cinnabar Support & Living Limited

## JUDGMENT

The respondent's application dated 10 March 2022 for reconsideration of the judgment sent to the parties on 3 March 2022 is refused.

## REASONS

1. On 10 March 2022 at 15:34 Mr Cook, a director of the Respondent, sent an email to the Tribunal with an attachment headed "Appeal re Mrs Toni Zinzan v Cinnabar Support and Living Ltd".
2. Any appeal against the judgment is to the Employment Appeal Tribunal.
3. Nevertheless, EJ Alliot has treated the email and attachment as an application for reconsideration of the judgment pursuant to rule 71 ET's (constitution & Rules of Procedure) Regulations 2013.
4. At paragraph 23 of the judgment EJ Alliot indicated that any application for reconsideration should be accompanied with a witness statement setting out precisely why it is that the respondent was not in attendance on 15 February 2022.
5. The case file indicates that on 16 February 2022 at 11:48 Mr Cook sent an email stating: "We were unable to attend the hearing yesterday due to communication issues".
6. In the 10 March 2022 document Mr Cook states:

"Mr Cook was unable to attend the virtual hearing as his property is rural and there were issues with both mobile phone connections and broadband lines."
7. EJ Alliot does not accept that Mr Cook has provided a valid reason for his failure to attend on 15 February 2022. Mr Cook was notified by email on 14 February 2022 that his application to postpone would be considered at the commencement of the

hearing. He has not stated that he did not receive this email. In any event, Mr Cook knew the hearing was scheduled to go ahead and that no postponement had been granted. Even if it is true that his property location means he has “issues with both mobile phone connections and broadband lines”, he made no attempt to contact the Tribunal in advance to explain any such problems or after his mobile number and office number had been called. Everyone knows where to get a signal at their home if there are “issues” with getting a signal. Mr Cook does not state he does not have a land line. He probably receives emails on his home computer/laptop and on his mobile.

8. Mr Cook has not provided adequate evidence to demonstrate that he did not deliberately decide not to attend. The failure to attend to re-apply for a postponement and represent the respondent is the respondent’s fault.
9. In any event, EJ Alliot took into account the statement of Mr Kurrain and the matters set out in the response. The Respondent and Mr Cook are seeking to advance various facts and matters to explain and justify varying the claimant’s contract of employment unilaterally to remove her contractual right to six weeks’ contractual sick pay.
10. It is insinuated that her sickness was not genuine. However, all six weeks absence were covered by a medical “Fit Note”.
11. Various allegations of negligence and bullying have been made against the claimant along with an assertion that the respondent has financial difficulties in order to justify the variation of the claimant’s contract of employment.
12. Even if these allegations were made out, whilst they might explain the respondent’s actions, they would not, in EJ Alliot’s judgment, have entitled the respondent to withdraw the claimant’s right to contractual sick pay half way through her period of sickness in the absence of reasonable notice. This is due to the implied terms found by EJ Alliot.
13. Consequently, EJ Alliot does not consider that it is in the interests of justice to reconsider the judgment or to allow a further hearing for the respondent to advance its arguments. EJ Alliot considers that there is no reasonable prospect of the original decision being varied or revoked. The application for reconsideration is refused.

\_\_\_\_\_

Employment Judge Alliot

Date\_14 April 2022\_\_\_\_\_

JUDGMENT SENT TO THE PARTIES ON

.....

.....  
FOR THE TRIBUNAL OFFICE