



EMPLOYMENT TRIBUNALS

Claimant: Mr T McGuinness

Respondent: Hughes Bros (Llanrwst & Trefriw) Limited
t/a Alpine Travel

JUDGMENT

The Claimant's application dated 23 May 2022 for reconsideration of the judgment sent to the parties on 14 May 2022 is refused.

REASONS

1. Having reviewed:
 - a. my notes of the evidence given by the Claimant and Mr Owens at the hearing on 13 and 14 April 2022;
 - b. the witness statements;
 - c. the judgment sent to the parties on 14 May 2022;
 - d. the contents of the Claimant's application dated 23 May 2022

I am satisfied that there is no reasonable prospect of the Tribunal's original decision being varied or revoked.

2. At paragraph 3, it is suggested by the Claimant that the emails which he has submitted were not available before as he had indicated to the authors of those emails that they would remain anonymous although he has now decided to disclose them. If, in the Claimant's view, they are disclosable now, they were clearly disclosable prior to the hearing of his claim. In failing to do so, he has deprived the Respondent of the opportunity to challenge that evidence.
3. In any event, based on the overall assessment of the credibility of the Claimant and that of Mr Owens as outlined in the judgment, it is not considered that this would have affected the conclusions reached by the Tribunal on this issue.

4. As for what is stated in paragraph 7, this represents further evidence on this issue. It is not the purpose of a reconsideration for a party to take issue with findings of the Tribunal based on the provision of further detail in relation to matters determined at the hearing, when such points could have been made at the hearing.
5. With regard to the content of paragraphs 9 and 10 of the Claimant's application, the Tribunal accepts that the Claimant attended as a companion but maintains its findings on the evidence, to include that of the Respondent, with regard to what was discussed at the meeting.
6. With regard to the points made at paragraphs 11 and 12 of the Claimant's application, the Tribunal does not accept that there is any inconsistency between paragraphs 19 and 34 of its judgment.
7. The Tribunal was satisfied that the Respondent had no knowledge of the hours the Claimant was working for M&H during the material time.
8. That is consistent with the finding at paragraph 34 that, when Mr Owens spoke with Ms Owen of M&H in March 2020 to be told that the Claimant had been working for M&H, he had not known of this beforehand. Furthermore, due to other priorities faced by Mr Owens at that time relating to the effect of the pandemic, he did not take the matter any further with the Claimant. In other words, Mr Owens did not make enquiries with regard to the Claimant continuing to work for M&H.
9. As for the issue relating to the Claimant working for Afonwen Laundry, the Tribunal heard evidence to that effect and reached its finding. In any event, whether the Claimant was working for Afonwen Laundry or for a driving agency at the time he started work for the Respondent in 2015 is not material to the Tribunal's conclusions.
10. The Tribunal is satisfied that it was entitled to reach its conclusions as set out in its judgment of 12 May 2022 and that the submissions made by the Claimant in his application are not sufficient to justify a variation or revocation of its findings.
11. The Claimant's application of 17 May 2022 contains not only evidence which was taken into account in reaching the decision, but also additional evidence which was not put before the Tribunal at the hearing on 12 April 2022 (either in written statement or in oral evidence or in documentary form).

12. The Tribunal is satisfied that the content of the Claimant's application does not materially affect the Tribunal's findings or conclusions in respect of his claims.

13. The purpose of the reconsideration is not to provide the parties with the opportunity of adducing further evidence, nor to simply provide further comment on parts of the judgment with which they may disagree. There is a strong public interest that there should, so far as possible, be finality of litigation.

Employment Judge R Havard

Date 1 June 2022

JUDGMENT SENT TO THE PARTIES ON 9 June 2022

FOR THE TRIBUNAL OFFICE Mr N Roche