



THE EMPLOYMENT TRIBUNAL

SITTING AT: LONDON SOUTH

BETWEEN:

Mrs A O'Mahony

Claimant

and

Priory Healthcare Limited

Respondent

JUDGMENT

The respondent's application dated 13 July 2022 for reconsideration of the Judgment sent to the parties on 1 July 2022 is refused.

REASONS

1. Having considered the respondent's application and claimant's response dated 14 July 2022 and having read the EAT Judgment in *Rodgers v Leeds Laser Cutting Ltd* [2022] EAT 69, I conclude that there is no reasonable prospect of the original decision being varied or revoked.
2. I confirm that the Tribunal did not as a panel consider the Rodgers decision, promulgated between the last two occasions on which we sat in chambers, before concluding our Judgment.
3. Having now read the Rodgers decision by reference to the respondent's application, I agree with the claimant's position that whilst it sets out in more detail the relevant statutory provisions and related case law and engages in useful discussion, it does not establish any new legal principles relevant to the claims in this matter. I am satisfied that the analysis in Rodgers is consistent with the approach of this Tribunal and reconsidering the decision by reference to the more detailed statements of principle in Rodgers would not result in any difference in outcome. Furthermore of course Rodgers was decided on its facts which were very different to those in this claim.

4. The respondent has referred to paragraph 151(c)(i) of the Judgment as perhaps requiring further explanation. That paragraph refers back (implicitly) to the finding at paragraph 150(a). It must be self evident that an unlawful act by an employer pursuant to section 44 of the 1996 Act in non payment of wages (clearly a fundamental term to any contract of employment) amounts to a breach of the implied term of mutual trust and confidence.
5. It is confirmed that the second date referred to in paragraph 150(c) should be 14 August. If either party requires a revised Judgment to be issued under the slip rule to this effect please confirm the same.

Employment Judge K Andrews
Date: 9 August 2022