



# THE EMPLOYMENT TRIBUNALS

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**Claimant:** Ms J Anderson

**Respondent:** CAE Crewing Ltd

## **JUDGMENT ON RECONSIDERATION**

The Claimant's application for reconsideration of the judgment sent to the parties on 9 June 2021 is refused as having no reasonable prospect of success.

### **REASONS**

1. Employment Judge Martin has considered the Claimant's application for a reconsideration of the judgment sent to the Tribunal on 18 July 2021. The application was allowed to proceed even though it was sent out of time given the medical evidence provided by the Claimant. There has been a considerable delay in this decision being made and sent to the parties for which Judge Martin apologises.
2. Within the application made by the Claimant (who is now representing herself) is a document which she says is new evidence which has become available since the hearing, which is helpful to her case. This new evidence was part of a disability risk assessment carried out in February 2021 which the Claimant says was not made available to her until March 2021 as part of a data subject access request. The relevant part states:

*"Referring employees to Company Doctors as and where there is a requirement. We have a contract with a company and they provide doctors as required".*

3. The Tribunal found that the Respondent was not vicariously liable for the acts of the doctors who carried out medical examinations on cabin crew. There was obviously a contract between the Respondent and the organisations that provided a doctor to carry out the assessments. They agree to do the assessment in consideration for a payment of a fee. However, the existence of a contract does not necessarily mean that the doctors are agents of the Respondent. For the reasons set out in paragraphs 37 to 45 of the judgment, the Tribunal found that they were not agents of the Respondent. The document provided by the Claimant does not alter that decision. All it does

is say that there are doctors available to carry out assessments as and when required.

4. The Claimant also says in her application that during the hearing it was extensively implied and suggested that she had misled Dr Rowley who she personally sought a medical examination from and who issued her with a fit to fly certificate. Whilst this may have been part of the cross examination of the Claimant, no finding was made in the judgment that the Claimant had lied. The judgment records that this happened and records at paragraph 28 that there was no other documentation regarding this assessment, for example the questionnaire that the Claimant would have completed given to the Respondent or put in as evidence before the Tribunal. This is factually correct and there is no suggestion in the judgment that the Claimant lied to Dr Rowley or deliberately withheld information from him.
5. In all the circumstances, the Claimant's application for a reconsideration has no reasonable prospect of success and is refused.

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Employment Judge Martin  
Date: 24 October 2022