



# EMPLOYMENT TRIBUNALS

**Claimant:** Olaf Olenski

**Respondent:** University of Essex Campus Services Ltd

## DECISION ON RECONSIDERATION OF REMEDY AND COSTS

1. By letter dated 28 July 2022, the Claimant sought reconsideration of the Tribunal remedy judgment. The Tribunal apologises for the delay in responding to the Claimant's correspondence which is due in part to the correspondence from the Claimant dated 16 October 2022 requesting a delay in proceedings due to incapacity. Subsequent correspondence that he sent to the Tribunal on 23 November 2022 was overlooked. This became apparent following the Claimant's further email dated 20 December 2022. Regrettably, the Claimant did not copy either of these emails to the Respondent.

### **Reconsideration of remedy judgment**

2. The Claimant's application for reconsideration of the remedy judgment is refused. There is no reasonable prospect of the judgment being varied or revoked.

3. The Claimant's evidence and contentions were fully considered by the Tribunal during the remedy hearing and in forming conclusions. Paragraph 34 of the Remedy Judgment flowed directly from the liability judgment. The fact that the Claimant disagrees with the findings and conclusion does not form a proper basis for reconsideration.

4. In respect of mitigation, and ability to seek alternative work, the Claimant's evidence was similarly fully assessed as part of fact find and conclusions. The conclusions are set out on at paragraphs 41 and 42 of the Remedy Judgment. The Tribunal concluded that the Claimant ought to have been able to secure a role earning more than £3922.60 within 12 months of termination. Hospitality sector roles are not limited to roles requiring physical activity.

### **Interpreter**

5. The Claimant alluded to being disadvantaged during the proceedings due to not having an interpreter. Such concerns were not mentioned or raised with the Tribunal during liability or remedy hearing. Indeed, the Tribunal took significant steps

to ensure the Claimant's needs were accommodated to enable him to properly participate throughout the hearing. At no stage did he state that he needed an interpreter. Further, doing so would have been wholly contradictory to his positive case regarding his professed English language ability necessary when assessing suitable alternative work.

**Costs**

6. Finally, it is not in accordance with the overriding objective to list a costs hearing. Having considered the Claimant's implicit application for costs dated 12 July 2022, the Tribunal letter dated 29 July 2022 to the parties and the Respondent's email dated 17 August 2022, it is concluded that there is no reasonable basis for the Claimant to claim costs pursuant to rule 76 of the ET rules. Simply defending allegations made does not amount to vexatious or unreasonable conduct.
7. As such it is not in accordance with the overriding objective to list a costs hearing and the Claimant's application for costs is refused.
8. This concludes the Employment Tribunal's involvement in the matter.

**Acting Regional Employment Judge Burgher  
Dated: 12 January 2023**