



EMPLOYMENT TRIBUNALS

Claimant: L

Respondent: K

JUDGMENT

The respondent's application dated **4 September 2023** for reconsideration of the Reserved Judgment sent to the parties on **21 August 2023** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. Although the claimant had not originally pleaded that: stores accuracy logs were not completed in stores; and she never saw another employee completing stores accuracy logs, the respondent did receive the claimant's witness evidence in advance of the final hearing and there was a discussion at the start of the final hearing about removing irrelevant matters from the claimant's witness evidence. The claimant's evidence about the stores accuracy logs remained in her witness evidence. That part of the case was therefore allowed to proceed and was continued.
2. This was further compounded by the fact that this evidence was tested in cross-examination by both sides.
3. Again, although the claimant had not originally pleaded that she had passed the in-patient logs in dispensary, again there was a discussion at the start of the final hearing about the claimant's witness evidence and the claimant's evidence about passing the in-patient logs in dispensary was not removed from her witness evidence. That part of the case was therefore allowed to proceed and was continued.

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4. Again, this was further compounded by the fact that this evidence was tested in cross-examination by the respondent.
5. Even if I am wrong on the above points and the Tribunal on a reconsideration were to find that the claimant did need to complete stores accuracy logs and did need to complete the in-patient logs in dispensary the investigation report completed by Ms Darby did not provide sufficient detail about when the claimant was asked to complete either the stores accuracy logs or the in-patient logs in dispensary, by whom and what the claimant's response was to these requests. This still leads to the conclusion that Ms Lai did not have enough information to categorise not completing the stores accuracy logs or the in-patient logs in dispensary as being a willful failure or flagrant refusal without a satisfactory reason. Therefore, the same conclusion is reached that the alleged misconduct should not have been categorised as gross misconduct.

Employment Judge Macey

Date: 2 October 2023