



EMPLOYMENT TRIBUNALS

Claimant: Mr. Andrei Pronin

Respondent: NGE Contracting Limited

JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application dated **9th December 2023** for reconsideration of the judgment sent to the parties on **29th November 2023** is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. At a liability final hearing on 8th June 2023, the Claimant's claim of unfair dismissal was held to be well-founded and a remedy hearing listed on 25th July 2023. Judgment was entered in favour of the Claimant for the sum of £38,225.04, which included an amount of £31,662.77 as a compensatory award under s.123 ERA 1996.
2. For the remedy hearing, the Claimant provided a bundle of 193 pages, including a witness statement prepared for the remedy hearing.
3. At pages 7-9 of the Claimant's bundle was an updated schedule of loss. Specifically at item 3.12 (page 8), the Claimant claimed £1,044.65 for medical insurance under the heading of future loss.
4. The Claimant's witness statement was silent as to this head of claim, why he said this loss flowed from his dismissal, or what the arrangements for medical insurance had been at the Respondent prior to his dismissal.
5. Both parties were unrepresented. Neither had prepared many questions for the other sides' witness in cross-examination, meaning at both liability and remedy hearing, the Tribunal was required to ask open but probing questions to test the evidence, in accordance with the agreed list of issues, to ensure that the Tribunal heard evidence from which it could make findings of fact. The Tribunal did this out of fairness to both parties, and was careful not to descend into the arena and put one side's positive case to the other.
6. The Tribunal's judgment at §82 of the written reasons is correct – it did hear no evidence regarding health insurance. The Claimant did not lead evidence about this in his witness statement, did not cross-examine the Respondent about it (with reference to the quote for health insurance at pg. 136 of the remedy bundle) and did not highlight this as an issue to the

Tribunal, either at the start of the evidence (where the Tribunal allowed both parties to clarify or expand on any relevant parts of the evidence) or in re-examination.

7. In his reconsideration application, the Claimant refers to part of his Terms and Conditions of Contract within the Respondent's bundle. That extract states:

NGE Contracting Ltd employees are entitled to membership of our current medical insurance scheme. Details of the current scheme and the coverage can be obtained from the HR Department. Once an employee has been enrolled onto the medical insurance scheme, a booklet will be sent to the employee from the medical insurance provider detailing the policy and the level of cover. NGE Contracting Ltd may replace the scheme with another medical insurance scheme at any time.

8. This clause is not the evidence which the Claimant thinks it is in his reconsideration application. It does not state that the Claimant was enrolled, nor is it evidence of the level of cover provided. The Claimant did not seek to explore this issue, either in his own evidence, nor in cross-examination of the Respondent witness. The Tribunal heard no evidence about the contents of the booklet, whether the Claimant received such a document, or why it had not been included in either side's bundle.
9. The initial burden under s.123 ERA 1996 is for the Claimant to establish his loss. There was no evidence as to his entitlement to, or valuation of, any policy of health insurance provided by the Respondent.
10. Accordingly the Tribunal is unable to identify any material which would permit it to accede to the Claimant's request to reconsider, vary or revoke its judgment within the scope of its powers under Rule 70 of the Employment Tribunal Rules of Procedure 2013.
11. Therefore the Claimant's application for reconsideration is refused because there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

Employment Judge J Bromige
Dated: 5th March 2024