



EMPLOYMENT TRIBUNALS

Claimant: Miss N Fofanah

Respondent: Pulse Healthcare Ltd (1)
Remedy Umbrella (2)

JUDGMENT

The claimant's application dated 16 January 2024 for reconsideration of the judgment sent to the parties on 11 January 2024 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because the application discloses no grounds on which to conclude that it would be in the interests of justice to reconsider the judgment.

Contrary to the claimant's assertions in her reconsideration application, the claimant was fully heard at the preliminary hearing and her evidence and arguments were taken into account when the Tribunal made its decision. The claimant was not punished for speaking up as she asserts.

The claimant did attempt to play an audio recording to the Tribunal. However, the contents of the audio recording were not material to the issues before the Tribunal at that preliminary hearing. The Tribunal needed to ascertain whether the claimant would disclose a copy of the audio recording to the respondent as part of proper and standard preparation of the case for the final hearing. Both parties to Tribunal litigation must be given access to the evidence which is to be relied upon at the final hearing. Playing the audio recording to counsel once in the course of a Tribunal hearing is not meaningful and proper disclosure on which legal representatives can take instructions from their clients and in relation to which witnesses can prepare evidence. Playing the audio recording to the Tribunal and respondent's counsel at the preliminary hearing would not have constituted disclosure of the evidence to the respondent for the purposes of case management. Hence, the Tribunal did not listen to the recording during the hearing as the contents of the recording were not material to the decisions to be made at that preliminary hearing. (Paragraphs 20 to 23, 45, 50 of the written

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reasons dated 12 January 2024 addressed the issue of the audio recording.) The claimant's comments and representations during the hearing indicated that she would not send a copy of the recording to the respondent if ordered to do so. The most she would do would be to be play recording to the respondent's solicitor at a meeting.

The claimant's application for a reconsideration referred to an attached GP medical report. No such report was attached to the application as referred to the Judge. The only attachment was a letter to the claimant dated 7 June 2022 from Arc Legal Group regarding a legal expenses insurance claim. In any event, the Tribunal took into consideration the medical evidence which the parties put before the Tribunal at the preliminary hearing when making its decision on the preliminary issues.

Employment Judge Eeley

Date: 19 March 2024

JUDGMENT SENT TO THE PARTIES ON

3 April 2024

FOR THE TRIBUNAL OFFICE