



EMPLOYMENT TRIBUNALS

Claimant: Mr M O'Neill

Respondent: Guildowns Group Practice

JUDGMENT

The claimant's application dated 9 July 2023 for reconsideration of the judgment sent to the parties on 26 June 2023 is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because the reconsideration application largely challenges the tribunal's findings of fact. Those findings of fact were based on the evidence presented to the tribunal at the final hearing. The findings of fact made were properly open to the tribunal based on the evidence it received at the hearing. They were supported by evidence but the claimant disagrees with them. They were not perverse. The tribunal is entitled to make findings as to which party's evidence it prefers on any given issue.

The tribunal determined the case taking into account the way that it was put at trial by the parties' representatives. The claimant was given a full opportunity to make the arguments raised in the reconsideration application at the final hearing. To the extent that he did so, the arguments have already been properly considered and addressed in the reserved judgment and reasons. To the extent that the claimant's case was not put in exactly the same way at the final hearing as in the reconsideration application, there is no reason to allow the claimant a second opportunity to put his case.

Both parties were legally represented at trial. To the extent that the claimant now seeks to supplement the evidence originally available during the hearing, it is not appropriate for him to do so. The claimant had ample opportunity to put forward all the evidence and submissions at the first hearing. Any supplementary evidence now tendered as part of the reconsideration application does not meet the threshold in Ladd v Marshall [1954] 3 All ER 745. The tribunal is further mindful of the public interest in finality of litigation. Litigants are not routinely afforded a second opportunity to put their case.

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The claimant's summary of some of the oral evidence given at the hearing differs in part from the tribunal's record of the evidence. The tribunal has based its decision on its own record of the evidence presented.

The tribunal has already heard evidence about the applicable government guidance in relation to Covid 19 measures and has incorporated its relevant findings within the reserved decision.

The tribunal has made findings in accordance with its own notes of the evidence and has drawn conclusions in line with the submissions and arguments made on behalf of the parties at the hearing. Documentary evidence should properly be viewed in the context the of the oral evidence received and vice versa. The tribunal has addressed the matters which were for determination as set out in the list of issues. It has not strayed beyond the confines of the pleaded case as argued at the hearing.

Employment Judge Eeley

Date: 28 September 2023

JUDGMENT SENT TO THE PARTIES ON

10 October 2023

FOR THE TRIBUNAL OFFICE