



EMPLOYMENT TRIBUNALS

Claimant: Mr Joseph Khasake

Respondent: Digitalatto Limited

JUDGMENT

The respondent's application dated **20 August 2024** for reconsideration of the judgment sent to the parties on **7 August 2024** is refused.

REASONS

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

- 1) There was no "miscommunication" about the start time of the hearing on 1 August 2024. The Tribunal on three separate occasions clearly communicated to the parties that the hearing would start at 10am (see written Reasons).
- 2) The fact that the respondent had miscalculated time difference between the UK and his location on the date of the hearing, and as a result sought to join the hearing late, after it had finished and judgment had been announced and sent for promulgation, is not a sufficient reason to set aside or vary the judgment.
- 3) In any event, the respondent's defence and the evidence submitted by the respondent for the hearing were duly considered at the hearing. The defence was rejected with respect to the claimant's claim for unpaid salary. It succeeded with respect to holiday pay and overtime. The Tribunal's reasons for those decisions are set out in the written Reasons dated 7 September 2024.
- 4) Considering that the respondent was planning to join the hearing from abroad, when no permission to give oral evidence from abroad was sought or obtained by the respondent, the Tribunal would not have been able to hear the respondent's oral evidence (see Presidential Guidance on Taking Oral Evidence by Video or Telephone from Persons Located Abroad <https://www.judiciary.uk/wp-content/uploads/2015/03/Presidential-guidance-evidence-from-abroad-April-2022.pdf>). Therefore, little (if any) prejudice was caused to the respondent by it not being in attendance at the hearing.

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- 5) Even accepting that the reason for the respondent not joining the hearing on time was a genuine mistake in calculating time difference with the UK by reference to GMT and not BST, nevertheless, the fact remains that the respondent has failed to attend the hearing at the ordered start time, and did not respond to the Tribunal's calls and emails attempting to locate him until after the hearing had finished.
- 6) Finality of litigation is important principle, which must be observed unless there are compelling reasons to depart from it. I do not find that in the circumstances of this case the respondent's mistake in calculating time difference between his location and the UK and as a result not attending the hearing is a sufficiently compelling reason to revisit the judgment made at the hearing.

Employment Judge **Klimov**

Date 7 September 2024

JUDGMENT SENT TO THE PARTIES ON

13 September 2024

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FOR THE TRIBUNAL OFFICE