



**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4100621/2016**

**Held at Aberdeen on 28 June 2017**

**Employment Judge: Mr J Hendry (sitting alone)**

**Mr Keith Armstrong**

**Claimant  
Represented by:  
Mr R Alexander  
Solicitor**

**Westerton (UK) Limited**

**Respondent  
Represented by:  
Mr F Lefevre  
Solicitor**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Employment Tribunal grants the request for reconsideration of the Judgment dated 12 May 2017 and sent to parties of even date and in respect thereof amends the Judgment of the Employment Tribunal dated 16 January 2016 and copied to parties on the 17 January 2016 in the following terms:

1. Add a further finding:-

(Four) The Respondent shall pay to the claimant the sum of One Thousand, Six Hundred and Sixty Seven Pounds and Seventy Pence (£1667.70) as accrued but unpaid holiday pay for nine days.

2. A further paragraph 85(a) shall be added to the Judgment at page 23 in the following terms:-

5 The Claimant also seeks accrued but unpaid holiday pay. At the outset of the hearing it was conceded that the Claimant was due nine days. The calculation of holiday pay contained in the Claimant's Schedule of Loss which related to 11 days' holiday pay was not challenged. The total sum given in the Schedule of Loss was £2038.30. Nine days' holiday pay therefore amounts to £1667.70.

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### REASONS

1. A Reconsideration application was made in relation to the Judgment issued on the 15 16 January and copied to parties on the 17 January 2016. The basis of the application was that holiday pay had been agreed but had not been dealt with in the Judgment and that it was in the interests of justice to grant it.
2. I explained the background to the matter in some detail in the Judgment and 20 narrowly took the view that the reconsideration should not be granted.
3. Two of the factors that I took into account were the fact that issue of holiday pay did not seem to have been addressed in the Schedule of Loss or written 25 submissions.
4. A further request for reconsideration was made by the claimant's solicitors indicating that I was incorrect on these two important matters.
5. Having reconsidered the matter it appears that I am in error. I had used an earlier 30 version of the Schedule of Loss in considering the matter. That did not have a figure for accrued holiday pay. The more up to date Schedule gives a calculation, which was unchallenged, for twelve days holiday pay.

6. I had also failed to note that in the written submissions there is brief mention of holiday pay.

5 7. Accordingly my view is that the Tribunal should, in all these circumstances, have dealt with the matter of holiday pay at the hearing and that it is in the interests of justice to grant the reconsideration to provide the claimant with the remedy he seeks for accrued holiday days that are not challenged.

10 8. The issue is relatively straightforward. Holiday pay of 11 days was set out in the Schedule. The calculation was not objected to. Recalculating the figure for nine days comes to a figure of £1667.70 and accordingly the Judgment must be varied to reflect this.

15 Employment Judge: JM Hendry

Date of Judgment: 16 January 2017

Entered in register and copied to parties: 17 January 2017