



EMPLOYMENT TRIBUNALS

Claimant: Mr J Jordan

Respondent: RJ Urmson Commissioning Engineers Ltd

JUDGMENT ON RECONSIDERATION

The judgment sent to the parties on 22 August 2017 is varied so that only the complaints of unfair dismissal and breach of contract are dismissed. The complaint of unlawful deductions from wages was presented within time and will proceed to a hearing.

REASONS

1. In paragraph 53 of the reasons promulgated with the judgment on 22 August 2017 I observed that the parties had not addressed the question of the date upon which the last payment of wages was made to the claimant, since that would represent the start of the three month time limit for a complaint of unlawful deductions from pay under Part II Employment Rights Act 1996 (see section 23(2)(a)). The hearing and argument before me had proceeded on the assumption that it was paid at termination. On that basis I found that complaint to have been presented out of time and dismissed it. I invited an application for reconsideration if the date of payment had been sufficiently long after dismissal to render the complaint in time.

2. On 24 August 2017 the claimant applied for reconsideration of that judgment because the payment of wages from which the allegedly unlawful deduction was made occurred on 31 December 2016. As the claimant initiated early conciliation on 20 March 2017 he “stopped the clock” within the three month time limit, and as he presented his claim on 16 May 2017 within a month of the date early conciliation ended (18 April 2017), this complaint now appears to have been presented within time.

3. A copy of the application was sent to the respondent on 31 August 2017 with an invitation to respond if it wished. The respondent was notified of my provisional view that the application was well-founded. No response has been received. No hearing has been requested. I infer that the respondent does not contest the application.
4. Rule 70 of the 2013 Rules of Procedure prescribes that the test is whether it is necessary in the interests of justice to reconsider the judgment. The power to reconsider a judgment must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly.
5. As it is now clear that the complaint was presented within time I regard it as in the interests of justice to vary the judgment as it affects this complaint. As a person without professional representation the claimant had not appreciated the significance of this point.
6. The case will be a listed for a one hour final hearing to determine whether the respondent unlawfully deducted sums in respect of vehicle repairs (£250.00) and expenses (£453.62) from the final payment of wages to the claimant on 31 December 2017. If either party wishes to rely on documents they must be sent to the other party not less than seven days before the date of the final hearing, and three copies of each document (in a page numbered bundle) must be brought to the Tribunal hearing. The key issue is likely to be whether the deductions were authorised by (a) a written term of the contract (or an oral term notified in writing) or (b) written consent from the claimant in advance. The position ought to be clear from the documents. I urge the parties to consider resolving this by agreement if possible.
7. The date for the final hearing will be notified separately.

Employment Judge Franey

22 September 2017

JUDGMENT AND REASONS SENT TO THE PARTIES ON

27 September 2017

FOR THE TRIBUNAL OFFICE