



EMPLOYMENT TRIBUNALS

Claimant: Miss E. Bouzouma

Respondent: Carillion plc

London Central

9 November 2017

Employment Judge Goodman

RECONSIDERATION JUDGMENT

The judgement sent to the parties on 7 August 2017 is varied by reducing the basic award by 60% for conduct.

REASONS

1. These reasons should be read in conjunction with the Rule 72 consideration of application to be reconsidered judgement, which was sent to the parties on 23 August 2017. In brief, it was decided:
 - 1.1 that an application by the claimant to reconsider a decision to reduce the compensatory award for contribution had no reasonable prospect of success
 - 1.2 the respondents application to reduce the basic award for contribution as well prospects of success, and the parties were asked to write in 14 days to say whether the point should be reconsidered at a hearing on paper, and whether or not the basic award should be reduced for conduct.
2. The respondent replied, but not the claimant.
3. In the interim, the respondent asked for a postponement of the remedy hearing listed for 26 January 2018. The tribunal refused the application by letter of October 2017. The respondent's representative telephoned the tribunal on 25th of October, and as recorded by the clerk, told her that he had not had a reply to the postponement request, which is puzzling. In my absence, the matter was referred to the regional employment Judge who noted that the claimant had not responded to the direction for further

representations on the reconsideration application, and extended the time to make representations, to 6 November.

4. Both parties have now replied to the invitation to submit further representations, and they agree that the application should be decided on written representations.
5. The respondent made representations on 6 September 2017. The respondent amplifies its argument based on the reasons in *Drossou*, and particularly paragraph 28, for reducing the compensatory award for the same reasons as those given in the decision to reduce the basic award and by the same proportion, no differentiation in conduct having been identified.
6. The claimant, in a reply dated 6th of November 2017, argues that this is not a conduct case, and that the compensatory award should not have been reduced, so the basic award should not have been reduced either. It is argued, as it was in the application to reconsider, that no grounds are given why it was found that the claimant's failures told the respondent the immigration position was unsatisfactory and lacking in frankness, that the judge made this decision believing the claimant would benefit financially, that there was no proper meeting, so it is the respondent's fault that she did not know the facts, and did not know to approach a solicitor. Finally, it is argued that the parties were not told to make submissions on contribution. On the point made that the claimant should not argue the points again, it is submitted that "to learn it EJ should have taken into consideration when arriving at a decision".
7. The tribunal does not consider that any new matters have been put forward to show that the decision that the compensatory award should be reduced for conduct was wrong. The claimant does not argue that reasons for reducing the compensatory award should not apply to the basic award. She only says that both are wrong. This is not accepted, for the reasons given in the rule 72 decision sent the parties 23 August 2017.
8. On the submissions point, the question of a reduction of the award was clearly on the table at the hearing. The claimant was legally represented. It was at the discretion of the representative what submissions to make. A litigant in person would have been prompted on whether they wanted to say anything about contribution, but not a legal representative. In any case, the claimant says separate submissions were not necessary, because all the submissions made pointed to making no reduction.
9. Having regard to *Drossou*, neither side has shown any reason why this should be a distinction between reduction for basic award and a reduction for the compensatory award. The tribunal has already declined to reconsider the reduction of the compensatory award. Accordingly, the decision is varied such as to reduce the basic award by 60% too.