



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr N Hanks

v

**Michelle Swift t/a Swift Ice Cream
Swift Leisure**

Heard at: Norwich

On: 5 January 2018

Before: Employment Judge Postle

Appearances

For the Claimant: not in attendance and not represented

For the Respondent: Miss Swift

APPLICATION FOR RECONSIDERATION JUDGMENT

1. The judgment entered in favour of the claimant on 10 October 2017 is revoked.
2. The respondent's application for a reconsideration of the Judgment promulgated on 10 October 2017 is granted.

REASONS

1. The respondent through Miss Swift appeared before me this morning applying for reconsideration of the judgment in favour of the claimant in respect of unlawful deduction of wages amounting to £1,400.00.
2. Miss Swift tells me that she firstly inadvertently completed the wrong section on the response indicating at paragraph 6.1 she did not intend to defend the claim. She did intend to defend the claim. The other problem is that her post seemingly because Mr Hanks entered that address on the claim form has been going to her business premises, which she leases from the Model Village in Yarmouth. She believes that her post has been intercepted possibly by the claimant.

3. Her actual address is 11 Arundel Road, Great Yarmouth, Norfolk, NR30 4JY and that is where her future correspondence should be sent.
4. She tells me when she became aware of judgment being entered that she phoned the Watford Tribunal on a number of occasions to ascertain what she should do. After speaking to her MP, she realised she needed to apply for a reconsideration and ultimately she did do so.
5. She tells me that although some money is owed to the claimant, it is nowhere near the £1,400.00 judgement has been entered.
6. A further difficulty arises in respect of the fact Miss Swift tells me just prior to Christmas, High Court Enforcement Officers arrived to enforce the judgment and she has now paid the best part of £1,600.00 in satisfaction of the judgment.
7. When questioned as to what she proposed to do if I granted her application and listed for a full merits hearing if she was successful in reducing the amount, she proposes to recover any overpayment by similar means.
8. I was persuaded on balance in the interest of justice that this was a case where there were concerns about where the original correspondence went in respect of the respondent and also that there may be an argument case that the respondents do not owe the total sum of £1,400.00.
9. It is for those reasons in the interest of justice that I have granted the reconsideration and revoke the judgment.
10. The full merits hearing has therefore been listed at Norwich Employment Tribunal sitting at Norwich Magistrates Court, Bishopgate, Norwich, Norfolk, NR3 1UP on Friday 13 April 2018, with a time estimate of one day commencing at 10.00am or as soon as reasonably practicable thereafter.
11. The following orders have been made in connection with the full merits hearing.

ORDERS

Made pursuant to the Employment Tribunal Rules 2013

1. The claimant shall prepare a schedule setting out precisely the days upon which he worked, the hours worked during those dates and the amounts claimed by way of pay for each week the claimant asserts he worked. Such schedule to be sent to the respondent with a copy to the tribunal by **26 January 2018**.
2. The respondent shall serve a counter schedule setting out those hours it is accepted the claimant worked and dates and those which it is not

accepted were worked and send to the claimant with a copy to the tribunal by **9 February 2018**.

3. Each party shall prepare a typed witness statement. Such witness statements shall be numbered paragraphs in chronological order. The witness statements will firstly set out the contractual relationship between the parties and what was agreed in respect of hourly, weekly work. The witness statements shall then by reference to the above schedule, set out the parties' respective positions regarding the amounts owed or not owed and shall send to each other on **16 March 2018**.

Employment Judge Postle

Date: 7 / 3 / 2018

Sent to the parties on:

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For the Tribunal Office

CONSEQUENCES OF NON-COMPLIANCE

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.