



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant**

**Respondent**

Ms B Duffy v Plymouth Age Concern

## **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

**HELD AT** Exeter

**ON**

29 August 2018

**EMPLOYMENT JUDGE** PSL Housego

### **JUDGMENT ON APPLICATION TO RECONSIDER RULE 21 JUDGMENT**

**The judgment of the tribunal is that the respondent's application for reconsideration is refused.**

### **REASONS**

1. The claimant has sought a review of the judgment dated 27 March 2018 which was sent to the parties on 06 April 2018 ("the Judgment"). The grounds are set out in the e-mail letter from the claimant's representative dated Thursday 17 May 2018 at 15:49.
2. There is some doubt about when the decision was received by the claimant's representative. I have considered the application to reconsider the judgment even if it is technically out of time.
3. The Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules"). Under Rule 5 the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit

specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired.

4. The grounds for seeking a reconsideration of a judgment are set out in Rule 70, namely that it is necessary in the interests of justice to do so.
5. The representative sets out reasons for seeking a reconsideration. The first is that it is said that the law was misapplied with respect for the reason for dismissal. I do not agree that this is a justified criticism of the judgment. Paragraph 49 summarises the approach.
6. In respect of the claim for unlawful deductions/breach of contract (notice): the representative for the claimant submits that it was wrong to find that the Claimant was not reinstated on 13 March 2017. The reasons for my conclusions are at paragraph 74. It was decided not that there should be no dismissal, but that dismissal should have been with notice. The construction put on this by the claimant, that this amounted to reinstatement and immediate dismissal on notice is not logical or sustainable in my judgment, and nor was it supported by the documentation.
7. The representative then refers to a very lengthy document provided by the claimant setting out what she considers to be wrong with the decision. The reasons given break down into a series of different categories.
8. First there is a series of corrections, such as to the spelling of people's names. There is no doubt as to who is meant on any occasion. I do not propose to go through the judgment and make proof reading corrections.
9. There is reference to matters of fact: these are small matters such as the exact turnover of the home, and whether and when it was loss making. Whether or not these factual matters are precisely as the claimant states does not affect the substance of the decision.
10. The claimant seeks to say that she had a good relationship with Sally Ghent at the Council. This would be new evidence. It was not put in cross examination of the respondent's witnesses or in the claimant's own evidence. It is an attempt to reargue the case after the decision. Even if it is so, it was the decision makers within the Council whose view was relevant, and they were those referred to in the decision.
11. There is reference to documents that were excluded from the bundle for reasons of restriction on the size of that bundle. I can decide only on the evidence tendered to me. It was open to either party to make application to admit any other document if it was considered important to the case. The claimant, at point 18 refers to a new document being admitted which disadvantaged her. Any new document has to be the subject of an application

by the party seeking to admit it, to which application the other party may object. I am entirely satisfied that I conducted a fair hearing.

12. The claimant points to matters she says were wrong with the procedure adopted by the respondent. This is covered in paragraphs 63-67 of the judgment. My conclusion was that notwithstanding such matters the dismissal was not unfair, and I set out my reasons for so concluding. The judgment needs to be read as a whole to see why that was my conclusion.
13. The claimant raises a multitude of other points. Any judgment has to focus on what are the main points. It is neither possible nor sensible to try to set out every fact and facet of a case (especially where, as here, there were multiple issues. If all the points raised by the claimant were covered the judgment would have been hundreds of pages long.
14. Much of the long document supplied by the claimant is in effect a lengthy submission as to why there should have been a different outcome. I listened attentively throughout the lengthy hearing, having on the first day paid careful attention to the documents provided. I reviewed the evidence carefully before coming to my conclusions. It is not the function of a reconsideration to revisit submissions.
15. There are a series of disagreements with my conclusions. The losing party often does not agree with the judgment, but that is not a ground for varying or revoking it. That the claimant genuinely feels a great sense of injustice does not mean the judgment is wrong. The essence of the decision is summed up in paragraph 65 of the decision. None of the matters set out in the application or the lengthy document address this fundamental conclusion.
16. I confirm the judgment.

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Employment Judge PSL Housego

Dated                      29 May 2018

Judgment sent to Parties on

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