



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs N Stower  
**Respondent:** C & L Facilities Ltd

## JUDGMENT ON RECONSIDERATION APPLICATION

1. The Respondent's application by email sent on 20 March 2018 for reconsideration of the remedy and costs Judgment sent to the parties on 26 February 2018 is refused.
2. A Certificate of Correction is issued with this judgment.

## REASONS

1. The reasons for the Tribunal's Judgment on the application for reconsideration are set out herein only to the extent that the Tribunal considers it necessary to do so in order to explain its decision, and only to the extent that it is proportionate to do so.
2. The initial application for a reconsideration was made by email sent on 9 March 2018 by Mr Rees of Peninsula, Senior Appeals Consultant acting on behalf of the Respondent. The grounds were stated to be "the calculations of the award are strewn with errors and the maths doesn't add up" and "There are errors in the dates too". The application promised that further details would follow in due course.
3. By a letter from the Tribunal dated 13 March 2018, the Respondent was directed to provide details of the grounds of the application for reconsideration.
4. Mr Rees made the application on behalf of the Respondent under Rules 71 and 70 of the Employment Tribunals Rules of Procedure and he relied

on the case of *Williams v Ferrosan* [2004] IRLR 607 and the overriding objective under the Employment Tribunal Rules of Procedure 2013.

5. The original application on 9 March 2018 and the further information provided on 20 March 2018 were copied by the Respondent to the Claimant. The Claimant made no comment on the substance of the reconsideration applications.
6. The Tribunal also records that although the judgment which was sent to the parties on 26 February 2018 suggested under the Judge's signature that reasons had also been sent out, this was not in fact the case. However, a note written beneath the signature informed the parties that written reasons could be requested. The application on 8 March 2018 from the Respondent also included a request for written reasons. Having said that however, both parties were represented when the judgment and reasons were announced in the Tribunal. The written reasons for the judgment are sent out separately but at the same time as this reconsideration judgment.
7. The Respondent's application for reconsideration of the award of compensation was in two parts. The first part was based on errors in the award. Virtually all of the errors are matters which the Tribunal considered could be dealt with by way of a Certificate of Correction. Some were typographical errors, and some were errors in arithmetic calculation. One of the errors however highlighted an error as to the applicable figure in respect of the statutory cap on a maximum week's pay as it applied to an award of compensation for unfair dismissal. Once again however the Tribunal considered that this could be adequately dealt with by the Certification of Correction as attached. It is not a change in principle but the misapplication of the appropriate figure, the Tribunal having used the figure agreed by the parties.
8. The second element of the application asked the Tribunal to reconsider the award for the initial loss of earnings which had been calculated from 18 July 2016 until the date of the remedies hearing on 26 January 2018, an 18-month period.
9. The Tribunal saw no reason to reconsider its judgment in respect of the period of the award of loss of earnings. There was no further detail given in support of this application in this respect, save that the Respondent asked for a recalculation of the total award figure.
10. The next element which the Respondent asked to be reconsidered was in respect of the costs awarded against the Respondent. In the letter of 20 March 2018, it was said that the Respondent was of the view that 'his' ability to pay any costs were not fully taken into consideration in light of the company's profits which were less than £20,000. The Tribunal did indeed take this issue of ability to pay into account at the hearing. Proceedings were adjourned to allow the Respondent's then representative to take instructions, and then she addressed the Tribunal on the issue. The essence of this application for reconsideration is simply that the Tribunal reached a view with which the Respondent disagrees. That is not an adequate basis for the Tribunal to reconsider its judgment in this respect.

11. The Respondent further stated that the Claimant had brought a claim for pregnancy discrimination that had no reasonable prospects of success and that the Respondent had no alternative other than to resist the claim. The Tribunal considers that the award of costs that was made, namely £1,920 (£1,600 plus VAT) took this into account.
12. The Tribunal noted that there was a further typographical error on the remedy and costs judgment which only recorded the hearing as taking place on 25 January 2018. The remedy and costs hearing was listed for two days. The substantive merits hearing had taken place over three days in February 2017. This was also an issue which could appropriately be dealt with by a corrected Remedy and Costs Judgment.
13. The application for reconsideration did not raise any matters which would lead the Judge to consider that there was a reasonable prospect of the original remedy and costs judgment being varied or revoked. In those circumstances, having regard to the terms of Rule 72(1) of the Employment Tribunal Rules of Procedure 2013, the application for reconsideration was hereby refused.

Employment Judge Hyde

2 August 2018