



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A Larkin

**Respondent:** Shaun Wright

**HELD AT:** Liverpool **ON:** 14 January 2019

**BEFORE:** Employment Judge Shotter

## REPRESENTATION:

**Claimant:** Not in attendance

**Respondent:** Not in attendance

## JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal:

1. The claimant's application for a reconsideration of the judgment promulgated 22 August 2018 has no reasonable prospect of success and is dismissed.
2. The respondent's application for a reconsideration of the judgment promulgated 22 August 2018 has no reasonable prospect of success and is dismissed.

## REASONS

1. This is a preliminary hearing to deal with an application for a reconsideration made by both parties of the judgment in default promulgated on 22 August 2018. The respondent's application was received on 5 September 2018 and a number of allegations were made against the claimant, including fraud, that could have a bearing on remedy. The respondent had not filed an ET3 and

therefore it was found liable for unlawful deduction of wages and failing to provide a statement and terms of conditions of employment in accordance with S.1 of the Employment Rights Act 1996.

2. The claimant sought a reconsideration of the damages ordered in respect of the unlawful deduction of wages, which made little sense given the contents of the ET1 and breakdown. Clarification was sought by the claimant on 11 October 2018, who then confirmed in an email sent 17 October 2018 that the amount should in fact have been less than that ordered.
3. A reconsideration hearing was set down to resolve the differences and provide the parties with the opportunity to clarify their position and make representations. They have not taken up that opportunity, and neither contacted the Tribunal to inform it of the position and their inability to attend. The Tribunal has attempted to make contact, unsuccessfully in respect of the respondent and was told by the claimant's mother that he was in bed ill.
4. Under rule 70 schedule 1 of the Employment Tribunals Rules of Procedure a Tribunal may reconsider any Judgment where it is necessary in the interests of justice to do so. In this case the Tribunal does not find that it is in the interests of justice to reconsider the judgment promulgated 22 August 2018 in accordance with the claimant's and respondent's application as set out above. The Tribunal's discretion must be exercised judicially and with regard not just to the interests of the parties seeking the reconsideration, but also to the other parties, and the requirement for finality to the litigation and giving effect to the overriding objective the applications have no reasonable prospects of success and are dismissed.

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15.1.19 Employment Judge Shotter

RESERVED JUDGMENT AND REASONS SENT TO THE PARTIES ON

02 February 2019

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FOR THE TRIBUNAL OFFICE