



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Case No: S/4108587/2018

Hearing Held at Dundee on 21 March 2019

Employment Judge: I McFatridge

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Mr W Stewart

**Claimant
Written
representations**

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Highfield Haulage Contractors Limited

**Respondents
Written
representations**

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RECONSIDERATION JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Tribunal issued 21 December 2018 is reconsidered and altered as follows:

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1. The words Two Thousand, Two Hundred and Seventy Pounds and Fifty Six Pence (£2270.56) where they occur in lines 4 and 5 of Section 5 of the operative part of the judgment are delete and replaced with the words One Thousand, Nine Hundred and Fifty Six Pounds (£1956).
2. The figure £2270.56 where it occurs in the final line of paragraph 63 of the Reasons is delete and replaced by the figure £1956.

E.T. Z4 (WR)

REASONS

1. In this case the claimant made various claims against his former employers which were upheld. I made an award in terms of Section 38 of the Employment Act 2002 of four weeks' pay. I calculated this as £2270.56 being four weeks' pay at the claimant's gross weekly pay. On 7 January 2019 the respondents applied for a reconsideration of the Judgment in respect of this particular element. I did not refuse the application and continued the matter so that the parties might advise whether they wished me to deal with the matter on the basis of written representations or whether they wished a further hearing. The parties decided to proceed with written representations. The claimant's representative did not in fact submit any representations. The respondents relied on the representations contained in their original letter.
2. Having reviewed matters it is clear that I fell into error by using the claimant's gross pay without considering the effect of the statutory cap contained in Section 227 of the Employment Rights Act. I accept that the statutory cap applies to a week's pay in those circumstances and I accepted the respondents' representations that the appropriate figure to use was £489 which was the cap at the applicable time. The correct total should be £489 x 4 i.e. £1956 and not £2270.56.
3. I consider that it is in the interests of justice that I correct this error on reconsideration in terms of Rule 70.

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**Employment Judge:
Date of Judgment:
Entered in register:
and copied to parties**

**Ian McFatrige
27 March 2019
27 March 2019**