



EMPLOYMENT TRIBUNALS

Claimants

1. Mrs GV Patyi
2. Mr ZI Patyi

v

Mrs Kathy Murphy

Respondent

JUDGMENT ON RECONSIDERATION APPLICATION

The respondent's application dated 10 April 2018 for a reconsideration of the judgment sent to the parties on 27 March 2018 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. In a Judgment sent to parties on 27 March 2018, the Employment Tribunal determined, among other things, that the respondent had not paid the claimants for their work for September 2016.
2. In an email to the Tribunal dated 10 April 2018, the respondent applied for a reconsideration of the Tribunal judgment. The respondent's email stated, in short, that she had paid the wages for September 2016 earlier than would be normal. She also produced further material which she says goes some way to substantiating her assertion. She also rehearses submissions which were made to the Tribunal at the hearing.
3. Rule 70 of the Employment Tribunal Rules of Procedure 2013 provides: "*A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again.*"
4. As the reasons make clear, the Tribunal had several difficult issues of credibility to resolve. The evidence of the claimants was that they had not been paid for September. The respondent said that the money due was paid early. The Tribunal did not accept the evidence of the respondent and accepted the evidence of the claimants. The reliability of the evidence of the respondent and her witnesses was considered by the Tribunal. At paragraph 74, the Tribunal said "However, the Tribunal received no explanation why the final payslips were in the bundle and why Mr Whitney spoke to the final payslip being written and handed over on 1 October." The Tribunal did not receive any explanation why

the final payslips were in the bundle nor why Mr Whitney had said in his letter to the Tribunal explaining why he could not be present at the

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2302919/2016 and 2302920/2016

hearing that he was present when the final payslip was handed over. The Tribunal was aware that Mr Whitney was not at the October meeting and took it he was referring to a meeting in September. This is indicative of the difficulties caused by some of the evidence. The Tribunal did not accept that the hand-written pay statements prepared by the respondent were provided to the claimants and did not accept that they reflected sums paid to the claimants. The Tribunal was also aware that the claimants paid for their accommodation and had the unambiguous evidence of the respondent which is recorded in paragraph 84 "The Tribunal did not include in the calculation deductions for accommodation as the respondent says that the amounts due were paid."

5. The essence of the application is a repeat of the submissions already heard by the Tribunal and the additional material now provided would have been available for the hearing. The respondent was provided with considerable latitude at the hearing in terms of presenting material to the Tribunal. The interests of justice are not served in these circumstances by reconsidering the Judgment in the light of the contents of the respondent's application with attachments.
6. The Tribunal considers that there are no grounds for revisiting the judgment within the scope of its powers of reconsideration under Rule 70 of the Employment Tribunal Rules of Procedure 2013.
7. The respondent's application for reconsideration of the Judgment sent to the parties on 27 March 2018 is refused because there is no reasonable prospect of the original decision of the Tribunal being varied or revoked.

Employment Judge Truscott QC

Date 3 July 2018

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