



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss D Baskeyfield

**Respondent:** Mr D Robson

**Heard at:** Birmingham Employment Tribunal   **On:** 06/02/2020

**Before:** Employment Judge Mark Butler

## **Representation**

**Claimant:** In Person

**Respondent:** Did not attend

# RECONSIDERATION JUDGMENT

1. On its own initiative, subject to Rule 70 of the Employment Tribunal's Rules of Procedure, the Tribunal amends its Judgment of 06 February 2020, as it is in the interests of justice to do so, and finds that the claim for a redundancy payment was not made out and is dismissed.
2. The claim for arrears of pay is unaffected by this reconsideration. And so, the claimant succeeds in her claim for arrears of pay, in the net sum of £1,293.85, made up of failure to pay £678.30 as owed for the month up to 30 April 2019 and £615.55 as owed for the month up to 30 May 2019.
3. The claimant, after reconsideration, is awarded a total net sum of £1,293.85.

# REASONS

4. Notice of my decision to reconsider the decision of 06 February 2020 on my own initiative was sent to the parties on 07 February 2020. In this notice the grounds for reconsideration were explained. These were as follows:
  - Having reflected on his findings and the law on redundancy, Judge Butler considers that he has misapplied section 139 of the Employment Rights Act 1996.
  - Having found a dismissal and having found a set of circumstances that satisfied the statutory definition of a redundancy situation, Judge Butler reached the conclusion that a redundancy payment was due.
  - However, on reflection, section 139 of the Employment Rights Act 1996 makes it clear that it needs to be a dismissal by reason of the redundancy situation. Judge Butler is of the mind that he needed to be satisfied that the claimant is an employee who is dismissed by reason of redundancy. That being satisfied if the dismissal is wholly or mainly attributable to the redundancy situation.
  - Having reflected on the circumstances, and his findings, the constructive dismissal of the claimant was wholly or mainly attributable, as explained to Judge Butler by the claimant under oath, to the failure to make payment consistently on time and/or the failure to make any payment. This, on reconsideration is not a redundancy situation. And therefore, does not fall within section 139 of the Employment Rights Act 1996. And consequently, does not attract a redundancy payment.
  - In reconsidering his position, Judge Butler reconsiders this part of his judgment and concludes that a redundancy payment is not owed in this case.
5. The parties were given until the 24 February 2020 to write to the tribunal to explain whether they considered that the decision should not be reconsidered, with reasons to support their position. Further, the parties were asked to write to the tribunal by that same date to give their views as to whether the reconsideration could proceed without the need for a hearing.
6. The respondent replied to confirm his agreement with the reconsideration by email dated 07 February 2020.
7. The claimant did not respond to the notice of reconsideration. There has been no response as of the date of writing this judgment, that being 18 March 2020.
8. In these circumstances, and having reconsidered the evidence, the decision of 06 February 2020 is amended as follows:

- a. The claimant succeeds in her claim for arrears of pay, in the net sum of £1,293.85, made up of failure to pay £678.30 as owed for the month up to 30 April 2019 and £615.55 as owed for the month up to 30 May 2019.
- b. The claimant is unsuccessful in her claim for redundancy payment, and this part of her claim is dismissed.
- c. The claimant is awarded a total net sum of £1,293.85.

Employment Judge **Mark Butler**

18/03/2020

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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