



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Miss H Jarvis**

**Swans Day Nurseries Limited**

## JUDGMENT ON RECONSIDERATION

### **Rules 70 - 73 of the Employment Tribunal Rules of Procedure 2013**

Upon the respondent's application, without a hearing, the application to reconsider the judgment sent to the parties on 27 October 2020 is refused as there is no reasonable prospect of the judgment being varied or revoked.

### **Introduction**

1. At the end of a hearing by CVP on 21 October 2020, I reserved my judgment on the claims for notice pay and unlawful deduction of wages. The judgment with reasons was sent to the parties on 27 October. The claimant failed in her claim for notice pay but succeeded in her unlawful deduction of wages claims. Sums of £259.52 and £158 were ordered to be paid by the respondent to the claimant.
2. By email of 27 October Mr Luthra, on the respondent's behalf, applied for reconsideration of the judgment. Some points made by Mr Luthra appear to relate to the issue where the respondent was successful (the notice pay point). He did refer to the contractual agreement at paragraph 20 which I quoted at paragraph 7 of the judgment. He provides a definition of "rules" and "procedures" as those words appear in that paragraph. He repeats that the claimant signed that agreement. He also refers to the finding that the claimant was herself in breach when she failed to give notice and questions whether any sums should be paid to her. He queries the calculation for 9 days' pay.

### **Reconsideration**

3. I must consider the matter under the reconsideration rules in Employment Tribunal Rules of Procedure 2013 as above. That provides for a 14-day

period for a party to apply in writing for reconsideration. The judge must consider whether it is in the interests of justice to reconsider the judgment and, if it is, can confirm, vary or revoke that judgment. Rule 72 provides that an employment judge shall refuse the application if there is no reasonable prospect of the judgment being varied or revoked.

4. My next task therefore is to consider whether a reconsideration is in the interests of justice. Where I consider there is no reasonable prospect of the decision being varied or revoked, under Rule 72, the application shall be refused.

### **Conclusions**

5. This matter was listed a short track hearing for one hour but lasted from 11am to 12.15 and I then had to consider the matter and write the judgment. I ensured that both parties saw and read the documents that I considered and I asked them to take me to the relevant parts of the documents.
6. The fact that I found the claimant breached her contract by failing to give notice does not affect the rights she has to be paid for work done before that point, which is agreed to be 9 days, nor to statutory holiday entitlement. The calculation which Mr Luthra asks about is 9 days x 8 hours x hourly rate of £3.95.
7. I assessed the meaning of the contractual term relied upon by respondent and found that it did not cover these circumstances. I set this out at paragraph 24 of the judgment. The respondent is dissatisfied with the outcome but I assessed the oral and documentary evidence, heard argument and deliberated. In large part, the respondent appears to be seeking to re-argue that which has already been considered and determined. I must refuse this application as there is no reasonable prospect of the judgment being varied or revoked and it is not in the interests of justice to reconsider the judgment.
8. All other issues raised by the respondent are an attempt to re-argue issues already considered and dealt with in the reserved judgment. It is not in the interest of justice to reconsider any other part of the judgment.

**Employment Judge Manley**  
**3<sup>rd</sup> November 2020**

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**Judgment sent to the parties on**

**4<sup>th</sup> November 2020**

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**For Secretary of the Tribunals**