



EMPLOYMENT TRIBUNALS

Claimant: Ms C McPhillips

Respondent: Beacon Counselling

JUDGMENT

The claimant's application dated 16 November 2020 for reconsideration of the judgment sent to the parties on 16 November 2020 is refused.

REASONS

1. I have treated the claimant's letter of 16 November 2020 as an application for reconsideration, although the claimant writes that she wishes to appeal. If the claimant wishes to appeal, she must make her application to the Employment Appeal Tribunal, as set out in the booklet "Employment tribunal hearings: judgment guide", a link to which was included in the Tribunal's letter dated 16 November 2020 sent with the original judgment.

2. I understand the claimant to be asking for reconsideration of the decision relating to holiday pay and refusal of an ACAS uplift (although it appears the claimant may be taking issue with the refusal of an award of compensation under section 38 Employment Act 2002).

3. I have concluded that there is no reasonable prospect of the original decision in respect of any of these matters being varied or revoked for the reasons which follow.

Holiday pay claim

4. The claimant writes that I incorrectly stated that she only claimed holiday pay for 2017 and that she claimed for all the time she was a worker, dating back to 2011. Although paragraph 4 of my judgment does, incorrectly, refer to the claim being in respect of work done as a worker in 2017 (an error which has now been corrected under rule 69 – see below), it is clear from paragraphs 91 to 99 that I was, in fact,

considering a claim for 2 years' worth of leave and awarded compensation in respect of leave accrued in the period 20 March 2016 to 10 January 2018. The reasons explain why the claimant's claim could only go back to 20 March 2016. There is no reasonable prospect of my corrected decision being varied or revoked on reconsideration so the application for reconsideration of the award in respect of holiday pay is refused.

ACAS uplift

5. The claimant says in her letter: "I am also confused why my ACAS uplift was not adhered to, as I started in Feb 15 and had been asking for a correct copy of T & C for 9 months this is an unreasonable amount of time, to be kept waiting for an accurate copy of my contract. I repeatedly asked for this, and this is not reflected in your summary."

6. It appears from this that the claimant is conflating the claim for an ACAS uplift on the compensation for unfair dismissal and the claim for 2 or 4 weeks' pay under section 38 Employment Act 2002 for failure to comply with the requirements to provide a written statement of employment particulars. I provided reasons for not increasing the compensation for unfair dismissal because of failure to comply with a relevant ACAS Code of Practice in paragraph 129 of my reasons. I provided my reasons for not making an award under section 38 Employment Act 2002 in paragraphs 132 to 136 of my reasons. The claimant's letter sets out no basis on which I could conclude that I was incorrect in my conclusions on those two matters. There is no reasonable prospect of my decision being varied or revoked on reconsideration so the application for reconsideration of the judgment in relation to the ACAS uplift and the section 38 Employment Act 2002 claim is refused.

Clarification of the amount of compensation awarded

7. I do not understand this part of the letter to be an application for reconsideration, but a request for clarification. I deal with this to aid the understanding of the claimant.

8. The claimant, in her letter, writes that the breakdown of compensation does not include the £908 mentioned in paragraph 4 of the judgment. She writes that this is confusing and it is unclear how much compensation is awarded. The awards in paragraphs 4 and 5 of the judgment are separate awards for different claims. The claimant is to be paid both amounts. The calculation which I understand the claimant to refer to is the calculation of compensation for unfair dismissal in paragraphs 126 to 131 of the reasons. This does not include the compensation for holiday pay since this is a different claim, the calculation for which is at paragraphs 91 to 99 of the reasons.

Issue of a certificate of correction

9. Although I have refused the application for reconsideration, I have realised, on reading again my judgment and reasons, that I made an error in paragraph 4 of the judgment in referring to a claim for annual leave in respect of 2017 only; it is apparent from paragraphs 91 to 99 of the reasons that I was considering, and made an award in respect of, the period 20 March 2016 to 10 January 2018. I have also realised I made an error in the calculation by using 5.6 weeks in paragraph

97, rather than 4.37 weeks (see paragraph 93) with consequential errors in the calculation in paragraph 99 and the amount of compensation in paragraph 4 of the judgment. I have corrected these slips under rule 69 of the Employment Tribunals Rules of Procedure 2013 in a certificate of correction which is sent to the parties together with this judgment.

Employment Judge Slater

Date: 1 December 2020

JUDGMENT SENT TO THE PARTIES ON

7 December 2020

FOR THE TRIBUNAL OFFICE