



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Nos: 4102904/2019 & 4107066/2019

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Reconsideration in chambers on 27 November 2020

Employment Judge C McManus

10 **Mrs M Kelly**

**First Claimant
Not a party to the
reconsideration
proceedings**

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Ms Jacqueline Irvine

**Second Claimant
Written
Representations
Ms D Flanigan -
Solicitor**

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St Mary's Kenmure Ltd

**Respondent
Written
Representations**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of this Tribunal dated 18 May 2020, entered in the register and copied to parties on 20 May 2020, is reconsidered in terms of Rules 70 to 72 of the
30 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1, on the application of the second claimant's representative and on the agreement of parties and is varied only in respect of the second claimant and to the extent that that sum of £13,175.76 is substituted for the sum of £52,469.07, with the effect that the total award to the second claimant is £18,648.67, being unfair
35 dismissal basic award of £5,472.91 and compensatory award of £13,175.76 (on application of section 124 of the Employment Rights Act 1996).

The Judgment is then varied to read as follows:-

- (a) Delete words following the second bullet of the Judgment of the Tribunal and instead insert:-

- It having been conceded by the Respondent that the Second Claimant's dismissal by the Respondent was an unfair dismissal, it is determined that the Second Claimant is entitled to an unfair dismissal basic award of £5,472.91 and a compensatory award of £13,175.76 and the respondent is ordered to pay to the claimant the total sum of £18,648.67 (EIGHTEEN THOUSAND SIX HUNDRED AND FORTY-EIGHT POUNDS AND SIXTY SEVEN PENCE).

(b) In the Reasons, at end of paragraph 14, insert:-

"In the event of any compensatory award being made, such award may be limited by the provisions of section 124 of the Employment Rights Act 1996."

(c) In the Reasons, at start of paragraph 133, delete the sentence:-

'The total award to the second claimant is (£5,472.91 + £52,469.73) £57,942.64'

And instead there insert: -

"The compensatory award to the second claimant is limited on application of section 124 of the Employment Rights Act 1996. Section 124(1ZA) (b) provides that the amount is limited to 52 multiplied by a week's pay. On application of that limitation, the total award to the second claimant is (£5,472.91 + £13,175.76) £18,648.67."

REASONS

Introduction

1. The Judgment which is reconsidered is dated 18 May 2020, entered in the register and copied to parties on 20 May 2020. On 27 May 2020, the respondent's representative made an application for reconsideration of this Judgment, in respect of the second claimant only, on the basis that the compensatory award had been made without limitation by section 124 of the Employment Rights Act 1996.

2. The respondent's representative's reconsideration application contends that reconsideration is necessary in the interest of justice because the Judgment shows an error by omission of the final step of calculation of the compensatory award to the second claimant, being application of section 124 (1ZA),

Initial Consideration of Reconsideration Application

3. The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 ('the Procedure Rules') set out at Rule 70 – 73 provisions in respect of reconsideration of Judgments.
4. Following receipt of the reconsideration application, the parties' representatives were informed that EJ McManus was on sick leave and asked if the matter could be dealt with on agreement. Representatives were then informed that the initial reconsideration would be dealt with by EJ McManus on her return from sick leave.
5. On 30 September, representatives were informed that the application was not refused on EJ McManus' initial reconsideration. On application of Rule 72(1), representatives were informed of EJ McManus' provisional view to substitute the sum in respect of the compensatory award to the second claimant to £13,175.76, with the effect of the total award to the second claimant then being £18,648.67. Parties were asked for their views on the reconsideration proceeding without a hearing, such hearing being considered by EJ McManus to be not necessary on application of Rule 72(2).
6. Following further correspondence with the representatives, the reconsideration proceeded without a hearing and on agreement in respect of its effect.

Decision

7. On reconsideration, and on application of section 124 (1ZA) of the Employment Rights Act 1996 it is in the interests of justice to vary the Judgment as set out in herein.

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Employment Judge: Claire McManus
Date of Judgment: 27 November 2020
Entered in register: 02 December 2020
and copied to parties

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