



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs F Ollett

**Respondent:** Crown and Country Leisure Ltd

## JUDGMENT

The respondent's application for reconsideration of the judgment of the Tribunal of 6 April 2021 is refused.

## REASONS

1. By a claim form received by the Tribunal on 3 December 2020, the claimant complained that the respondent had made unauthorised deductions from her wages amounting to £2220 in respect of a period during which she was furloughed as a consequence of Covid19. The respondent failed to present a response within the time limit in rule 16 and a judgment was issued under rule 21(2) on 21 January 2021 ordering the respondent to pay £2200 to the claimant.
2. The respondent applied under rule 71 to reconsider and set aside the rule 21 judgment and to extend time for presenting a response. A reconsideration hearing took place before me on 6 April 2021. At that hearing I concluded that it was not in the interests of justice for the judgment be revoked and for the respondent to be given an extension of time to file a response to the claim and confirmed the original judgment.
3. The respondent now applies under rule 71 for a reconsideration of that decision of 6 April.
4. A tribunal has power to reconsider any judgment where it is necessary in the interests of justice to do so: rule 70. The respondent's application must first be considered by me under rule 72(1). If I consider there is no reasonable prospect of the original decision being varied or revoked, I must refuse the application. If I consider that there is some reasonable prospect of the original decision being varied or revoked I must seek a response from the claimant

and seek the views of the parties on whether the matter can be determined without a hearing. The application is then to be determined by me, either at a hearing or on the papers.

5. The ground of the respondent's application, in essence, is that in reaching my decision I did not consider, or did not properly weigh, the prejudice to the respondent of leaving the judgment intact. In the application, the respondent's representative says: "if the judgment is allowed to stand, then the impact on the respondent is to require it to make payment of monies which it has not ever received from HMRC and which it cannot hope to recover from HMRC. Further it is to require it to make payment of monies which the claimant has not been able to earn-as she was subject to furlough-and which the respondent has been unable to accrue through any form of income as it has been closed since March 2020."
6. In reaching my decision I took full account of the impact on the respondent of allowing the judgment to stand. I recognised that the respondent had an arguable defence to the claim and that there was a chance that its defence would succeed at a fully contested hearing. The effect of allowing the judgment to stand was that the respondent was not given a second chance to put forward its defence to the claim (having failed to avail itself of the first chance it had to defend the claim). However, I concluded that the respondent's interests were outweighed by the claimant's and the public's interest in the finality of litigation. In other words, the balance of prejudice did not favour revoking the judgment.
7. In the circumstances I consider there is no reasonable prospect of the original decision being varied or revoked. It follows that I must refuse the application.

Employment Judge Aspden

23 July 2021