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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4113398/2019

Reconsideration hearing held in chambers on 23 August 2021

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Employment Judge M Sutherland

William McPhater

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**Claimant
Represented by:
Mr E Mowat -
Solicitor
By written submissions**

JB Global Limited (In Administration)

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**Respondent
Not represented
No written submissions**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

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The Judgment of the Tribunal is that upon the application of the Claimant intimated on 15 June 2021 the Judgment of the Tribunal dated 18 May 2021 and issued to parties on 2 June 2021 is reconsidered. Upon reconsideration the said Judgment is varied to the following extent: –

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- (1) The Claimant's address is changed from "Curtland" to "Kirkland"
- (2) In paragraphs 1, 23 and 26 the figure "£16,068.75" is substituted for "£19,326" and the figure "£12,568.75" is substituted for "£15,826".
- (3) In paragraph 2 the figure "£247.99" is substituted for "£193.63".
- (4) In paragraph 11 the words "The Claimant did not receive payment of his basic pay in the period 11 to 14 July 2019 (inclusive)" are deleted.

- (5) In paragraphs 5.12, his average gross commission was £231.98 and his average net pay including commission was £486.31 (not £616.60) and these figures are substituted.
- (6) In paragraphs 5.15 and 27 the date of “27 July” is substituted for “15 July”.
- 5 (7) In paragraph 8 “the week of 15 July” is substituted for “the period between 11 to 14 July”.
- (8) In paragraph 23 the figure of “£502.75” is substituted for “£633.04”.
- (9) The following is substituted for paragraph 27 “The Claimant’s contract of employment does not contain any terms permitting a reduction in pay or
10 demotion from his position in the circumstances. His demotion was therefore in breach of contract. That breach was outstanding on termination of his employment. The Claimant is entitled him to damages having regard to the reduction in his remuneration in respect of the week immediately following demotion and prior to his sick leave of £247.99
15 (£15.40 basic, £0.61 pension and £231.98 commission)”.

REASONS

1. A final Hearing was heard on 12 May 2021 attended only by the Claimant and his representative. Judgment of the Tribunal dated 18 May 2021 was issued
20 to parties on 2 June 2021. The Claimant intimated an application for reconsideration on 15 June 2021 which was not opposed. That application was not refused on initial consideration.
2. By application the Claimant sought reconsideration of the sum awarded in compensation and the sum awarded in damages for breach of contract.
- 25 3. The Claimant evidenced that having regard to his payslips his net average weekly pay was £502.75 (and not £616.60 as found) and the sum awarded in compensation should be reduced accordingly.

4. The Claimant evidenced that his sick absence did not arise in the period 11 to 14 July as found but one week after demotion on 15 July. Having regard to his payslips the Claimant suffered a reduction in his remuneration in respect of the week immediately following his demotion and prior to his sick leave of

5 £247.99 (£15.40 basic, £0.61 pension and £231.98 commission).

5. The Judgement, upon reconsideration, is varied accordingly.

6. Save in so far as varied by this Judgment, the Judgment dated 18 May 2021 and issued to parties on 2 June 2021 is confirmed.

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Employment Judge: Michelle Sutherland
Date of Judgment: 23 August 2021
Entered in register: 07 September 2021
and copied to parties

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