



EMPLOYMENT TRIBUNALS

Claimant: Ms S Piteira

Respondent: Benjamin Tolla (trading as Curtis Sloane)

JUDGMENT

The Claimant's application dated **21 November 2021** for reconsideration of the judgment sent to the parties on **9 November 2021** is refused.

REASONS

1. On 21 November 2021, the Claimant applied for reconsideration of my judgment sent to the parties on 9 November 2021 ("**the Judgment**"). Unfortunately, the Claimant's application has only been brought to my attention on 7 February 2022. I apologise for the delay in dealing with it.
2. I note that on 19 December 2021 the Claimant submitted an appeal against the Judgment to the Employment Appeal Tribunal ("**the EAT**"). I do not know the status of the appeal, however, if it has not yet been decided by the EAT, the Claimant should send this judgment to the EAT and ask for it to be added to her appeal papers.
3. Having considered the Claimant's application, I find that there is no reasonable prospect of the Judgment being varied or revoked for the following reasons.
4. It appears the Claimant is seeking reconsideration of the Judgment on the grounds that:
 - (i) the Claimant misunderstood the Tribunal's questions during the hearing due to her limited proficiency in English;
 - (ii) in calculating the amount of unauthorised deductions from wages for July and August 2020, the Tribunal has failed to take into account tax and NI that the Respondent should have paid to HMRC on behalf of the Claimant, but failed to do so;
 - (iii) the Tribunal has failed to take into account the period of early conciliation in calculating the 13-week's period for the purposes of s12(4) Employment Rights Act 1996, and therefore incorrectly refused to award to the Claimant

the sum of £100 for the Respondent's failure to provide itemised pay statements.

5. The Claimant asks the Judgment to be varied to order the Respondent to pay to the Claimant the sums of:
 - (i) £1,000 for failure to provide written particulars of employment,
 - (ii) £100 for failure to provide itemised pay statements,
 - (iii) £430 for holiday pay and £430 for untaken holiday pay, and
 - (iv) £716 for unauthorised deductions from wages for July and August 2020.
6. During the hearing the Claimant did not indicate that she was unable to understand what was being said at the hearing. She did not ask for an interpreter. Based on the Claimant's answers and representations at the hearing I was satisfied that she was able to follow everything that was being discussed at the hearing and to present her case to the Tribunal.
7. Furthermore, all the issues the Claimant is raising in her request for reconsideration have been duly considered by the Tribunal in reaching its decision.
8. The Claimant was awarded by the Tribunal the sum of £1,000 for the Respondent's failure to provide particulars of employment. The reasons for making that award are explained in the Judgment (see paragraphs 40-47 of the Judgment). It is not clear on what basis the Claimant seeks a further award of £1,000. I see no reason to vary the Judgment to increase the award.
9. With respect to the Claimant's monetary claim for failure to provide itemised pay statements, for the reasons explained in paragraph 51 of the Judgment, the Tribunal could not make a monetary award to the Claimant. The 13-week's period is calculated (looking back) from the date of the presentation of the claim form. Section 12(4) ERA does not provide for an extension of that period by a period of early conciliation.
10. The Claimant was awarded £430 for accrued but untaken holiday (see paragraphs 33 – 39 of the Judgment). It is not clear on what basis the Claimant claims that she should be entitled to a further award of £430 for "holiday pay" and £430 for "untaken holiday". The Claimant cannot recover twice for her accrued but untaken holiday.
11. Finally, as was explained to the Claimant at the hearing, if she considers that the Respondent has failed to pay to HMRC relevant taxes and NI contributions on her behalf for July and August 2020, she needs to discuss this matter with HMRC.
12. Based on the evidence available to the Tribunal at the hearing, the Tribunal found that the correct net salary amounts had been paid to the Claimant by the Respondent for July and August 2020. Therefore, there were no unauthorised deductions from her wages.
13. The Claimant appears to be seeking an order for the sums representing tax and NI for July and August 2020, which should have been remitted by the Respondent to HMRC. The Claimant is only entitled to receive, by way of an award for unauthorised deduction from wages, the difference between the sums she was paid in July and August 2020 and "*the total amount of the wages properly payable by [her] on [those] occasion[s] (after deductions)*" (see paragraphs 25-27 and 29-32 of the Judgment). As the Tribunal found that there was no such difference, it follows that there were no unauthorised deductions from her wages, and on that basis her claim for the same was dismissed.

14. I understand the Claimant has withdrawn her sexual harassment claim, and it has been dismissed on withdrawal by another Employment Judge.
15. The Claimant's application does not disclose any new facts or circumstances, which would justify revisiting the original decision. Finality of litigation is an important public policy principle, and tribunal decisions should not be reopened or relitigated, except in limited circumstances when the interests of justice clearly demand so.
16. For these reasons I do not consider that it is necessary in the interest of justice to reconsider the Judgment.

Employment Judge **Klimov**

Date 10 February 2021

JUDGMENT SENT TO THE PARTIES ON

11 February 2022

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FOR THE TRIBUNAL OFFICE