



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss L M Cook

**Respondent:** The Eye Academy (Richmond) Ltd

UPON APPLICATION made by the respondent on 30 November 2022 to reconsider the judgment dated 31 October 2022 under rule 71 of the Employment Tribunals Rules of Procedure 2013.

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The judgment of the Tribunal is that: the respondent's application for a reconsideration is granted. The judgment dated 31 October 2022, and set out in written reasons dated 20 December 2022, is varied.
2. The Tribunal has decided to vary the judgment by substituting the sum of £227.24 net in place of the sum of £300 net. No other variations are made.
3. The varied judgment is as follows:
  - (i) The claimant succeeds in her claim for unlawful deduction from wages for the value of the sunglasses. The respondent is ordered to pay to the claimant the sum of **£227.24 net**. Her claim for unlawful deduction from wages for the General Optical Council fees does not succeed.
  - (ii) The claimant's claim for breach of contract in respect of parking expenses does not succeed and is dismissed

## REASONS

1. Oral reasons were given to the parties at the hearing on 31 October 2022. An application was made by the respondent on 30 November 2022 to reconsider the judgment dated 31 October 2022.
2. Written reasons were requested by the respondent on 4 November 2022. Written reasons dated 20 December 2022 were sent to the parties on 24 December 2022.
3. The Tribunal concluded, amongst other things, in its judgment dated 31 October 2022 that the claimant succeeded in her claim for unlawful deduction from wages for the value of the sunglasses. The respondent was ordered to pay the claimant the sum of £300 net.
4. An application for reconsideration was made by the respondent by email dated 30 November 2022. The email stated that the sum of £300 ordered was incorrect. The email set out a calculation showing that the final salary payment due to the claimant was for a total of £317.24, which after deducting the £90 owed in General Optical Council fees, gave an outstanding balance of wages owed to the claimant of £227.24. The respondent stated that this was the sum which had been deducted.
5. The claimant was given the opportunity to comment on the application for reconsideration and whether the matter could be determined without the need for a hearing. The claimant submitted that the sum of £300 ordered should not be varied. She considered that the matter could be dealt with by the Tribunal without a hearing. The respondent also considered that the matter could be dealt with by the Tribunal without a hearing. Parties were given a further opportunity to make written representations before the reconsideration was determined without a hearing, and they did so.
6. In summary the claimant submitted that as there had been a finding made against the respondent for unlawful deduction of wages, the sum of £300 ordered should remain. The claimant also submitted that if the order was varied to £227.24, the claimant was entitled to "54 weeks interest of £20 minimum on the unpaid £227.24." The Tribunal understood the time period to relate to the time it had taken the claimant to obtain judgment in her claim from when it was first raised.
7. The respondent submitted that there had been an error by the Tribunal in its calculation as only £227.24 had been deducted from the claimant's wages for the sunglasses.
8. The Tribunal considered the application carefully and the written representations made by both parties.

9. The Tribunal noted that parties had agreed in the hearing that the sum due to the claimant in wages on 30 November 2021 was £317.24 net. The parties agreed that the following deductions had been made (i) £90 General Optical Council (GOC) registration fees; (ii) £227.24 for sunglasses. This resulted in no wages being paid to the claimant on 30 November 2021.
10. The Tribunal also made findings in fact on 31 October 2022 that:
  - a. *“The final net pay due to the claimant before any deduction for General Optical Council (GOC) fees or for the Chanel sunglasses was £317.24.”*
  - b. *“Two deductions were made from the claimant’s net pay; £90 for a General Optical Council (GOC) payment and £227.24 for the cost of sunglasses. No wages were paid to the claimant. The respondent believed the value of the Chanel sunglasses was £300. The respondent calculated that £72.76 was due to the claimant.”*
11. The Tribunal’s findings in fact were that although the respondent had valued the sunglasses at £300, only £227.24 had been deducted by the respondent for the value of the sunglasses. This was because once GOC fees of £90 had been deducted this left only the sum of £227.24 net of the claimant’s final wages remaining.
12. On reconsideration of the judgment, the Tribunal concluded that the order in the sum of £300 had been made in error. Section 13 of the Employment Rights Act 1996 (ERA) provides that an employer shall not make a deduction from a worker’s wages unless this is authorised by statute, a provision in the worker’s contract or by the previous written consent of the worker. The deduction made by the respondent, which the Tribunal found was unauthorised, was £227.24 not £300.
13. In these circumstances, the Tribunal considers that it is in the interests of justice, in terms of Rule 70 of Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, for the judgment dated 31 October 2022, and set out in the written reasons dated 20 December 2022, to be varied such that the sum ordered to be paid by the respondent to the claimant is £227.24 net.
14. The claimant’s submission that she is entitled to “54 weeks interest of £20 minimum on the unpaid £227.24.” is not well founded. There is no statutory or other basis upon which interest can be awarded by the Tribunal, as claimed.

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Employment Judge McCluskey

Date: 25 January 2023

JUDGMENT SENT TO THE PARTIES ON

30 January 2023

FOR THE TRIBUNAL OFFICE

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