



EMPLOYMENT TRIBUNALS

Claimant: Miss K Jones

Respondent: The Elephants Ear Ltd

JUDGMENT

The claimant's application dated **12 April 2023** for reconsideration of the judgment sent to the parties on **12 April 2023** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked because:

1. The claim form as presented was only a claim for the last month's pay. The claimant at that time valued it at £1173.50 but was waiting for her payslip. The respondent filed an ET3 response form indicating the claim was not defended. In the meantime the claimant had sent in her documents for the final hearing which was due to take place on 21 April 2023. There she said she was claiming the amount of £1028.55 which was a net figure. The accompanying payslip gave a gross figure of £1050.50 which was therefore the sum awarded in the Rule 21 Judgment given that generally awards for arrears of pay will be treated as taxable by HMRC.
2. The claimant in her reconsideration application seeks the sum of £586.85 holiday pay. I cannot however see that a holiday pay claim was ever brought within the ET1 claim form and I cannot within a Reconsideration Judgment make an award for something that was never claimed and on which the Respondent has not had the opportunity to respond. There has been no amendment application.
3. The claimant also seeks the sum of £420 relating to an issue with HMRC. Again, however, it was not within the claim form as presented and the Tribunal does not have jurisdiction over matters relating to HMRC notifications and rebates.
4. The claimant also refers to a sum she says she was offered through Acas early conciliation and says that she has been awarded by the Tribunal less than what was offered (but not agreed by her). Again, however, the point is flawed for various reasons including that (a) it was not the claim she presented on her ET1 claim form, (b) the sum in question was never agreed and (c) in any event the contents of Acas early conciliation discussions are

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confidential and privileged and should not be put before the Employment Tribunal.

Employment Judge **R Harfield**

Date 17 April 2023

JUDGMENT SENT TO THE PARTIES ON 18 April 2023

FOR THE TRIBUNAL OFFICE Mr N Roche