



EMPLOYMENT TRIBUNALS

Claimant: Mrs D Philpott

Respondent: Cawdor Cars (Newcastle Emlyn) Ltd (R1)
Mr D.K.L. Davies (R2)
Mr. D.W. Evans (R3)

In Chambers: Wrexham **on:** 19 September 2023

BEFORE: Employment Judge T. Vincent Ryan

REPRESENTATION:

Claimant: Written application

Respondent: Written representations

DECISION

On the Respondent's application for Reconsideration of the Remedy judgment (Rules 70 – 73 ETs (Constitution & Rules of Procedure) Regs 2013))

The remedy judgment, sent to the parties on 6 June 2023, is varied in accordance with the respondent's application dated 19 June 2023 for the reasons stated therein; a Certificate of Correction shall be issued accordingly, reflecting an additional award to the claimant for loss of earnings in the sum of £1,691.94, which sum is payable by the respondent.

REASONS

Written Submissions:

1. I have read and considered the following:

1.1. 19 June 2023 – the respondents' application

1.2. 30 June 2023 - the claimant's addendum to her "appeal"

1.3. 1 July 2023 – the claimant's further response to the respondents' application which she entitled "Opposition to financial miscalculations by respondents"

1.4. 3 July 2023 – the respondents' further submission in response to the claimant

1.5. 3 July 2023 – the claimant's further response to the respondents

1.6.7 September 2023 – the respondents' final submission with proposed draft corrected judgment showing tracked changes.

2. In addition to the above I have re-read the reserved remedy judgement in question and my decision on the claimant's application for reconsideration that was sent to the parties on 29 August 2023.

Rationale for variation:

3. The respondents are correct that the Tribunal made an error with regard to the claimant's post-employment self-employed earnings, which were inadvertently overstated. I am grateful to the respondents for pointing out the error, not least because this has resulted in an additional award to the claimant and she would otherwise have been under-compensated.
4. In the interests of justice I have signed a Certificate of Correction of the Remedy Judgment and I accept the corrected version of the remedy judgment provided by the respondents which showed tracked changes. The error was correctly identified. The tracked changes reflect the consequential required amendments without the need to reconvene the panel or list a hearing.
5. The claimant does not accept the respondents' calculations of her losses. The claimant does not accept the Tribunal's findings of fact and conclusions. The claimant has repeatedly referred to her appeal against the remedy judgment. For the avoidance of doubt, any appeal against the judgment ought to be presented to the Employment Appeal Tribunal. I cannot deal with an appeal against this Tribunal panel's judgment. I can correct a patent error in the written judgment.
6. I have already rejected an application by the claimant for reconsideration of the remedy judgment. I consider that the claimant's representations in response to the respondents' application for reconsideration amount to a request for a rehearing and different findings of fact in respect of earnings. In the interests of justice taking into account all of the factors to be considered in applying the overriding objective of the Tribunal, I am not prepared to reopen the remedy considerations to the extent sought by the claimant.
7. The respondents' application for reconsideration has been granted, following due consideration of all written submissions from both parties, because it is the correction of an error which was patent. The misstatement of earnings by reference to whether they were weekly or monthly resulted in an injustice to the claimant. Once the error was pointed out it has been easily corrected. If the claimant seeks anything more fundamental than that it is presumed she will raise it as part of her appeal to the Employment Appeal Tribunal.

Employment Judge T.V. Ryan
Date: 19 September 2023

JUDGMENT SENT TO THE PARTIES ON 22 September 2023

FOR THE TRIBUNAL OFFICE Mr N Roche