



EMPLOYMENT TRIBUNALS

Claimant: Miss Elizabeth Kenyon

Respondent: Mr Steven Carter

UPON APPLICATION by the Respondent by letter dated 13 November 2023 for the tribunal to reconsider the judgment issued on 31 October 2023 under rule 71 of the Employment Tribunals Rules of Procedure 2013, and both parties having given their views in writing and having consented to proceed without a hearing:

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Respondent says that employer's tax and national insurance contributions should be deducted from the awards of £1,703.23 for unauthorised deductions from wages and £107 for payment in lieu of unused annual leave, on the basis that it has a statutory duty to deduct those sums at source and account for them to HMRC.
2. It is not for the employment tribunal to determine what view HMRC might take of the legal status of the parties' relationship for tax purposes, nor of the Respondent's potential tax and national insurance liability. This is a matter for the parties to clarify directly with HMRC.
3. That said, if HMRC were to take the view that tax and national insurance are properly payable and should be deducted at source through PAYE, in my view the Respondent would be entitled to deduct the appropriate sums before paying the net award to the Claimant. I have therefore decided to amend the gross awards set out in the judgment by expressly making them subject to any deductions that may be appropriate in respect of tax and national insurance.
4. In her email dated 13 December 2023 responding to the application for reconsideration, the Claimant stated that she would be content either to pay any tax on the award herself or alternatively for the Respondent to make the appropriate deductions on her behalf. If the Respondent took the latter course, she would require proof of payment of tax and national insurance. This is not a matter that falls within the tribunal's jurisdiction. Similarly, the tribunal cannot adjudicate on the Claimant's request for the Respondent to make pension

contributions, which did not form part of her original claim.

5. The third paragraph under the heading 'Reserved judgment' shall be varied to read as follows:

'The Respondent is ordered to pay the Claimant a total of £4,390.23, comprising £1,703.23 for unauthorised deductions from wages, £107 for payment in lieu of unused annual leave due on termination, and £2,580 as damages for failure to give contractual notice. The awards for unauthorised deductions and payment in lieu of annual leave are subject to any deductions that may be appropriate in respect of tax and national insurance. The award for failure to give contractual notice is the net figure after notional deductions.'

**Employment Judge Leverton
Date: 18 February 2024**

JUDGMENT SENT TO THE PARTIES ON
11 March 2024

FOR THE TRIBUNAL OFFICE