



EMPLOYMENT TRIBUNALS

Claimant: Miss J Grant

Respondent: Advinia Health Care Limited

Reconsideration Judgment

The Claimant's application for reconsideration dated 4 February 2025 is successful. The sum awarded for grossing up is corrected to £30,772, giving a global award of £106,931.

Application

1. Application for reconsideration of the sum awarded by way of "grossing up" was presented by the Claimant on 4 February 2025.

" The application arises out of a mathematical error by the Claimant's representative when making submissions to the Tribunal on the correct figure for grossing up the Claimant's award for tax. The mathematical basis of the calculation was incorrect. It understated the value required for grossing up that would arrive at the Tribunal's net award of £76,159. The sum awarded for grossing up should have been £30,772 – not £18,464. This would result in a total award of £106,931 – not £94,623."
2. Counsel for the Claimant had multiplied the sum which was taxable by 40% to give a grossing up figure of £18,484. Whilst counsel realised the error on the day of the hearing and emailed at 15.53 that same day, that email was not brought to my attention (and was not before me until I saw it as part of the Reconsideration Application of 4 February 2025).

3. In the application for a reconsideration it was explained that this formula adopted was in fact incorrect. Rather, the total award should be reduced by the tax free allowance, then the taxable sum grossed by being divided by (1-40%), then the tax free allowance added back in. This gives a grossing up sum of £30,772.
4. A letter was sent from the ET to the parties seeking the view of the Respondent to be received by the tribunal by 21 March 2025. No reply was received. (In fact the same letter had been sent to the correct parties on 18 February 2025 but citing an incorrect case number, giving the year of the case as 2023 when it is in fact 2022. No reply was received in response to that letter either, despite the case number error being noted by the Claimant's representatives and the request for a corrected copy to be sent out also being copied to the Respondent).
5. On 2 April 2025 EJ Tuck ordered a further letter be sent to the parties as follows:

“Having received no response from the Respondent by 31 March 2025, and having been told by the Claimant that their application is not in fact opposed, EJ Tuck has determined that the reconsideration should take place without a hearing.

EJ Tuck is minded to reconsider the judgment as requested, and to correct the sum for grossing up to the figure of £30,772.

Unless the Respondent sets out why this course of action should not be taken by 18 April 2025 the reconsideration will be permitted.”

6. As of 23 April 2025, no reply has been received to that correspondence.

Law

7. Rule 70 of Schedule 1 to the ET (Constitution and Rules of Procedure) Regulations 2013 provides that a tribunal may, on its own initiative or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. Rule 72 sets out the procedure. If there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused. Otherwise the tribunal will seek a response from any other parties and seek views on whether the application can be determined without a hearing or not. If the application is reconsidered without a hearing, the ET shall give the parties a reasonable opportunity to make further written representations.
8. An example of a review being used when there was an error of calculation was seen in the National Minimum Wage case of *Eastern Eye (Plymouth) Ltd v Hassan* UKEAT 0383/14, where it was found to be in the interests of justice.

Conclusion

9. I am satisfied that there was an error in the calculation of ‘grossing up’ which meant that the Claimant would not receive the net sum awarded absent this reconsideration. That would not serve the interests of justice. The application is therefore allowed.

Case no: 3309237/2022

Approved by:

Employment Judge Tuck KC

23 April 2025

Judgment sent to the parties on

24 April 2025

For the Tribunal