



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4106023/2024

Held in Glasgow (by CVP) on 20 September 2024

Reconsidered on 22 May 2025

Employment Judge S Cowen

Ms S Walker

Claimant

South Lanarkshire Council

Respondent

JUDGMENT ON RECONSIDERATION

1. The Judgment of 9 December 2024 remains and the application for reconsideration is dismissed.

REASONS

1. Firstly, this judgment comes with apologies for the long delay in providing an outcome to the parties. This has been in part due to a backlog of work and in part due to some sickness absence. Unfortunately this has led to a significant delay and therefore this judgment comes with regret for any inconvenience or difficulty caused to either party.
2. The Tribunal have considered the written submissions of the Respondent made on 20 December 2024 and by the Claimant on 21 January 2025.
3. The Respondent's first comment that the Claimant did not provide a breakdown of her calculation, did not interfere with the ability of either party to deal with the claim or result in the hearing being delayed or postponed. The Respondent did not request any postponement. The Respondent's witness Mr Sloey was allowed to hear the Claimant's evidence prior to giving his evidence and therefore he was not placed at any disadvantage. The Respondent's counsel was able to take instructions as required.
4. The Tribunal therefore considers that the Claimant, represented by her Trade Union representative, did her best to explain complex mathematics to the Tribunal and the Respondent. Meetings had taken place between the

Claimant and Mr Sloey on prior occasions, where the same calculation had been explained to him. The evidence was not therefore new to him, nor surprising.

5. The Respondent's submission for reconsideration (paragraph 9) says that "It remains of considerable concern to the Respondent following her evidence, that the logic and methodology of the Claimant's position has still not clearly been demonstrated". The Tribunal was clear on the Claimant's position and her calculation and set it out in the Judgment. The Tribunal's decision was based on that clear understanding and therefore the fact that the Respondent continues to decline to appreciate the Claimant's explanation does not lead to an incorrect finding by the Tribunal.
6. The Respondent challenges the Tribunal's finding of fact that Mr Sloey said that weekends are not counted when calculating sick pay and that this contradicts the policy. Having checked the Tribunal's notes of the evidence in chief, it was noted that when asked "why was C not paid weekends in 1/365?" Mr Sloey responded "because C was sick during the week". This was not a question which was prefaced with a time period, as is now suggested in the Respondent's submissions. However, the Tribunal has considered the evidence in relation to the calculation once again.
7. Nevertheless, the calculation by the Respondent on their spreadsheet, sets out payment to the Claimant on a 1/260 basis only on weekdays. Whereas, the Respondent's policy stipulates that payment should be made on a 1/365 basis, i.e that the employee is also paid for weekends. This is the fundamental difference between payment on 1/260 and 1/365 basis. The rate takes account of this difference in payment in order to ensure that the same salary figure is achieved across the year.
8. The Respondent's submission about the one day moving into the next tax year makes no difference to the Claimant's claim. No part of the claim was dependent on the tax period, nor was the claim said to be altered due to this. The Tribunal therefore did not consider the Respondent's submission on this to be relevant or justified.
9. As the Tribunal found in the original Judgment, the Claimant was to be paid 183 days at full salary and 182 days at half salary. The period over which she was paid the first 183 days, was carried out as payments of 30.4/365, but provided at 28 day intervals. The difference was set out as basic pay on the payslips. The Tribunal noted that Mr Sloey did not given explanation for the basic pay amount on each pay slip, which the Tribunal considered to be the correcting payment.

10. The Tribunal therefore did not accept the Respondent's application for reconsideration and the Judgment of the Tribunal remains.

Sent to the parties on

27 May 2025