



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs P Hodge

**Respondent:** National Westminster Bank Plc

## JUDGMENT ON RECONSIDERATION

- (1) Following the Claimant's application dated 8 January 2021, Employment Judge E Burns has decided the application should proceed in part.
- (2) The judgment should be varied so that the following paragraphs are added into the section on findings of fact as new paragraphs 79A and 79B:

"79A The Claimant emailed the Tribunal on 26 October 2020, after the hearing was concluded, attaching an incomplete email chain dated 25 October 2020 between her and PC Blue. The Respondent objected to the inclusion of this late evidence. The Tribunal panel nevertheless considered the email as they felt it was important to do so.

79B In the email PC Blue says that he listened to the 999 call made by Ms Ademiyi when she rang the police on 17 September 2019. He says that in the call she described the man standing outside the bank that morning as the same man who attacked a member of staff the previous day. We did not hear evidence from PC Blue or have an opportunity to hear the 999 call or even read a transcript of the call. Nevertheless, we saw no reason to disbelieve what PC Blue told the claimant in his email.

79C As noted above, Ms Ademiyi's evidence before us was that she had exaggerated the incident of 17 September 2020 when calling Alertline and that she was not sure the man she could see outside the bank was the same man involved in the incident. It is unsurprising that she did the same when she telephoned the police. Providing incorrect information to the police is a serious matter. We nevertheless find this is what she did on a balance of probabilities. We note, however, that this allegation was not put to her in cross examination and she has not had an opportunity to respond to it."

- (3) The name of the respondent is corrected as above.

# REASONS

## Background

1. The claimant made a formal application on 8 January 2021 for a reconsideration of the reserved judgment on liability made in her case. The application for the reconsideration was received within the time lime set out under Rule 71 of the Tribunal Rules.
2. The Claimant indicated three grounds for a reconsideration:
  - (a) Employment Judge E Burns should have recused herself because of her relationship with the respondent
  - (b) New evidence
  - (c) Nadine Drew's witness evidence and incorrect calculation
3. I decided that it was in the interests of justice that for me to reconsider the judgment to a limited extent.
4. As required under Rule 72(1), I sent a notice by email to the parties asking for the respondent's response to the application by 19 February 2021 and seeking the views of both of the parties on whether the application could be determined without a hearing. As permitted under Rule 72(1), I set out my preliminary views on the application.
5. The respondent confirmed that it agreed with my preliminary views. It also confirmed that it was not seeking a seeking hearing.
6. The claimant responded saying that she wanted a hearing because she did not agree with my provisional view. She provided some additional points of argument which I have reviewed. I did not consider the additional points required me to reconsider my preliminary view that a hearing was not necessary in the interests of justice.

## Substantive decision

### Ground One

7. I rejected this ground because I did not have a relationship with the respondent which (1) made it inappropriate for me to sit as judge on this case and/or (2) mean that I should have declared a possible conflict of interest to the parties at the start of the hearing. I have never had a commercial relationship with the respondent.
8. It is correct that I previously held the job title Partner and Head of Employment law and HR Services at a law firm that was at one point a panel firm for the respondent. I was employed in this role rather than being a true legal partner. The firm was not a panel firm for employment law advice or matters. Neither I nor any member of my team acted for the respondent.

## Ground Two

9. After the hearing was concluded, the claimant emailed the Tribunal on 26 October 2020 attaching an incomplete email chain, dated 25 October 2020, between her and PC Blue. She asked that this be taken into consideration. She contended it proved Ms Ademiyi had lied to the Tribunal.
10. The tribunal panel took account of the evidence when deliberating in chambers on 30 October 2020. The judgment did not explain this, however. I have therefore varied the judgment by adding an additional three paragraphs as set out above so that it is clear what that we took the email into account.
11. The panel did not conclude that Ms Ademiyi had lied to the tribunal. We found that she was not entirely truthful when she rang Alertline or the police on the morning of 17 September 2018. She did see someone standing over the road with a baseball bat that morning. She told Alertline and the police that it was definitely the customer from the previous day even though in reality she was not sure about this. She had a reason to exaggerate, namely in order to get a security guard assigned to her branch which would assist with being short staffed. We considered whether this evidence meant that Ms Ademiyi was an unreliable witness but concluded that she was not and had been honest in her evidence before the tribunal.

## Ground Three

12. The tribunal panel decided to admit the late written statement of Ms Drew having heard submissions from both parties. I rejected this ground as a ground of reconsideration because the reserved judgment already explains the way the Tribunal approached the statement of Ms Drew, i.e. cautiously.
  13. The fact that the panel reached our own conclusions on the matters set out in the statement, and did not simply adopt the information in it, demonstrates our approach was suitably cautious.
  14. The claimant also asked us to reconsider our judgment as the calculation we included in the judgment was incorrect. She did not indicate in her reconsideration application however, how the calculation was incorrect. It would need to be incorrect by a very significant amount to make the overall decision invalid and therefore this is not a valid ground for a reconsideration.
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**Case No: 2201081/2020**

**Employment Judge E Burns  
23 March 2021**

JUDGMENT SENT TO THE PARTIES ON

23/03/2021.....

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FOR THE TRIBUNAL OFFICE