



EMPLOYMENT TRIBUNALS

Claimant: Mr P Barry
Respondent: T & L Sugars Limited
Heard at: East London Hearing Centre
On: 22 March 2019
Before: Employment Judge Russell

Representation

Claimant: Mr M Stephens (Counsel)
Respondent: Mrs S Fraser Butlin (Counsel)

REMEDY JUDGMENT

1. The Claimant's car allowance and employer's pension contribution formed part of his remuneration for the purposes of calculating compensation.
2. The Claimant was entitled to three months' notice.
3. The Claimant has not to date unreasonably failed to mitigate his loss. He will have mitigated his loss from 22 September 2019. The period of loss is from dismissal on 16 May 2017 until 22 September 2019.
4. The appropriate adjustment to the compensatory award for Polkey is a 20% reduction.
5. The appropriate adjustment to the compensatory award for failure to follow the ACAS Code is a 15% uplift.
6. The appropriate adjustment to the basic and compensatory awards for contributory fault is a 60% reduction.
7. The award for breach of contract (without pension loss) is 3 months @ £3,484.01 pcm net: £10,452.03
8. The basic award is agreed at £5,476.80 (£13,692-60%)

9. The compensatory award (without pension loss) is £21,179.34, calculated as follows:

- (i) Compensated period 16/8/17-22/3/19 = 109 weeks
- (ii) Earnings at R = 109 @ £804 p/wk net = £87,636
- (iii) Less new job earnings (109@£288.46 p/wk net) = £56,193.85
- (iv) Less 20% Polkey (£11,238.77) = £44,955.08
- (v) Plus 15% ACAS (£6,743.27) = £51,698.35
- (vi) Less 60% contributory fault (£31,019.01) = £20,679.34
- (vii) Plus £500 loss of statutory rights = £21,179.34

10. Grossed up element ($£7,108.17 / 0.8$) = £8,885.32

11. Total award after grossing up but excluding pension loss: £38,885.21

12. Within 28 days, the parties shall exchange documents relevant to pension loss. Within 42 days, the parties shall write to the Tribunal with an agreed figure for pension loss or their competing submissions which will be determined on paper.

Employment Judge Russell

22 March 2019