



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. I K Harling

**Respondent:** Eastbourne Borough Council

**Heard at:** London South Croydon

**On:** 20 August 2019

**Before:** Employment Judge Sage

**Members:** Ms. H Pollard  
Dr. R Fernando

## **Representation**

**Claimant:** Mr Chegwidde of Counsel

**Respondent:** Mr. Curtis of Counsel

# JUDGMENT

Upon the Respondent committing to amend the job description for the Waste Operative Role in light of the matters raised in the witness statement of Tim Whelan provided for today's hearing

AND Upon the Respondent agreeing to provide a train ticket for the Claimant to travel from Eastbourne to Newhaven for as long as it is required as a result of the Claimant being employed as a Waste Operative in Newhaven

## **BY CONSENT IT IS ORDERED**

1. The Respondent shall re-engage the Claimant in employment that is comparable to that from which he was dismissed, or other suitable employment. The terms for the re-engagement are as follows:
  - a. The identity of the employer is Eastbourne Borough Council
  - b. The nature of the employment is the role of Waste Operative, in the Waste Services Team

- c. The remuneration of the role is Grade Band C, Spinal Column Point 6, currently £21,971 per annum based on a 40-hour week.
- d. The Respondent shall pay to the Claimant arrears of pay that he might reasonably have expected to receive but for the dismissal, including the long service award payable on the anniversary of his 25<sup>th</sup> year of continuous service. This sum shall be paid net of earnings received by the Claimant from the date of dismissal to the date of re-engagement. As at 30 June 2019 the earnings received by the Claimant since dismissal are agreed to be £25,723.54. The sum shall also be paid net of contributions the Claimant and his new employer have made to his pension scheme, which are agreed to be £874.12 as at 19 August 2019.
- e. By no later than 16 December 2019 the Respondent is ordered to reinstate the Claimant into the Respondent's pension scheme and pay a lump sum into the pension scheme to reflect the value of the pension contributions from the date of dismissal to the date of re-engagement that puts the Claimant into a position at the date of retirement as if he had not been dismissed. The Respondent shall provide adequate confirmation to the Claimant of the adjustments made to his pension by 16 December 2019.
- f. The Respondent is to pay the Claimant the sum of £10,603.98 by way of compensation pursuant to s.117(1) Employment Rights Act 1996. Such sum to be paid by 22 October 2019.
- g. The date of re-engagement is 23 September 2019.
- h. The sums at paragraph d above shall be paid within 30 days of the Claimant providing all of the following to the Respondent:
  - i. Evidence of earnings received from employment from 1 July 2019 to the date of re-engagement
  - ii. Evidence of pension contributions made from 20 August 2019 to the date of re-engagement

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Employment Judge Sage

Date: 20 August 2019

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.