



EMPLOYMENT TRIBUNALS

Claimant: Mr G Williams

Respondents: Mr D Jones and Mr G Jones, A Partnership trading as D Jones and Son

JUDGMENT

The respondents' application for reconsideration of the calculation of the protective award is dismissed.

REASONS

1. The respondents seek a reconsideration of the corrected judgment dated the 10th October 2019 wherein the judgment in favour of the claimant, consequent to the respondent's failure to comply with its obligations as required by s. 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A 1992), was expressed as a gross figure rather than as a "sum equivalent to 60 days pay" as expressed in the original judgment.
2. The claimant opposes the application.
3. The respondent's written submission states as follows:

"We totally disagree with the figure of £4920.00 and ask how this has been calculated and by whom .

*The claimant Gareth Williams worked a five day a week with a salary of £410.00.
There is 8.7 weeks of the two months he was awarded.
Therefore $410.00 \times 8.7 = 3567,00$.*

As his employer we think we should have been consulted with regards to this settlement figure and have not.

Judge Powell refused to acknowledge the information and evidence we had at the tribunal relating to the claimant being in employment within two weeks of the closure of our company in December 2017 .”

The claimant claimed he was unemployed and obtaining job seekers allowance and other benefits which we find disgusting.”

We have attached the claimants written and signed statement of losses.”

4. I have reviewed the judgment and the reasons.
5. I note that the parties do not dispute the claimant’s gross weekly wage nor the fact that he worked five days a week.
6. The judgment, which awards the claimant a sum equivalent to 60 days pay, is not subject to appeal.
7. The method of calculation is thus:
8. The claimant’s weekly wage of £410.00 is divided by the five days a week the claimant worked. This defines the value of a “day’s pay”; £82.00.
9. The day rate is multiplied by the 60 days set out in the judgment (£82.00 x 60).
10. The total sum is therefore £4920.00.
11. The judgment awards the claimant a sum equivalent to 60 days pay, not an amount the claimant would have earned in a period of 60 calendar days.
12. On consideration of the respondent’s argument I am satisfied that the amount set out in the corrected judgment is correct.
13. The respondents’ second argument is that I failed to take into account evidence of sums earned by the claimant after his dismissal. I did consider the evidence referred to in the respondent’s application when I considered what, if any, compensation should be awarded to the claimant following my decision that he had been unfairly dismissed. I did not make a compensatory award.
14. A protective award is punitive rather than compensatory in nature. The assessment of the amount of such an award takes into account a number of factors to which I referred in the Reasons. The post dismissal earnings of the employees with whom the employer failed to consult is not a relevant factor to be considered.
15. For the above reasons, I refuse the application to revoke or vary my decision that the respondent is ordered to pay the claimant the gross sum of £4.920.00.

Employment Judge R F Powell
Dated: 3 November 2019

JUDGMENT SENT TO THE PARTIES ON

.....4 November 2019.....

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS