



EMPLOYMENT TRIBUNALS

Claimant: Mr Leon Mendez

Respondent: Plasflow Limited

HELD BY Video/in person Hybrid

ON: 9 April 2021

BEFORE: Employment Judge Little
Mrs K Grace
Mr K Smith

REPRESENTATION:

Claimant: In person (present within the court room)

Respondent: Mr J A F Walker, Managing Director (remote)

REMEDY JUDGMENT

The unanimous Judgment of the Tribunal in respect of remedy is as follows:-

1. Unfair dismissal.
 - 1.1. The claimant is awarded a basic award of £5299.72.
 - 1.2. The claimant is awarded a compensatory award in the amount of £4723.38.
2. Race discrimination (direct and harassment)
 - 2.1. The claimant is awarded the sum of £9000 in respect of injury to feelings.
 - 2.2. The claimant is awarded the further sum of interest thereon in the amount of £1377.03.
3. Accordingly the respondent is to pay to the claimant forthwith the total amount of £20400.13 (subject to the Recoupment Regulations as to which see below).
4. The Recoupment Regulations apply in respect of the award for unfair dismissal compensation. For the purpose of the Regulations, the monetary award is £10023.10; the prescribed element is £4122.82; the period of the prescribed element is 10 May 2019 to 9 April 2021 and the amount by which the monetary award exceeds the prescribed element is £5900.28.
5. A schedule illustrating the calculation which has led to the above award is attached.

THE SCHEDULE

Unfair dismissal

Basic award

The claimant had been employed for 11 complete years and was aged 56 at the date of dismissal. The parties agree that his average gross weekly pay with the respondent was £458.85. The appropriate multiplier is 16.5:-

16.5 x £458.85	£7571.20
Less 30% contribution	<u>£2271.30</u>
	£5299.72

Compensatory award

- (a) For the period of the claimant's initial unemployment, 8 weeks at the figure agreed by the parties to be the average net weekly pay with the respondent, £367.04:

8 x £367.04	£2936.32
Less 30% contribution	<u>£ 880.89</u>
	£2055.43

- (b) During the period when the claimant was working via an agency – circa 7 July 2019 to circa 13 January 2020, within that 27 weeks the claimant would, if not dismissed, have earned

£9910.88

He is required to give credit for the sums which he earned through the agency work and that amount is

£8766.80

£1144.08

Less 30% contribution £ 343.22

£ 800.86

- (c) The period from 13 January 2020 - new permanent employment with ZND (UK) Limited to 30 April 2021. The Tribunal have assessed the claimant's average net weekly pay from his new employment as £340.50. On the basis that his old net weekly pay was £367.04 there is a differential of £27 and we have awarded that for the 67 weeks in this period:

67 x £27	£1809.00
Less 30% contribution	<u>£ 542.70</u>
	£1266.53

Pension loss

The respondent contributed £16.27 per week to the claimant's pension. The claimant did not receive any pension contributions from the date of dismissal until such payments began with the agency work on 11 October 2019. That is a period of 22 weeks:

22 x £16.27	£357.94
Less 30% contribution	<u>£107.38</u>
	£250.56

Loss of statutory employment rights award:

	£500.00
Less 30% contribution	<u>£150.00</u>
	£350.00

Race discrimination – injury to feelings

The award is £9000.

The claimant is entitled to interest thereon pursuant to the Employment Tribunal (Interest on Discrimination Awards) (Amendment) Order 2013 at the rate of 8%. The calculation period is from the date of the unlawful discrimination (3 May 2019) to today's date (9 April 2021). That is a period of 699 days. The daily rate of interest is 1.97:

6.99 x 1.97	£1377.03
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Employment Judge Little

Date 16th April 2021