



# THE EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Coatsworth  
**Respondent:** Nattrav Limited  
**Heard at:** Newcastle upon Tyne Hearing Centre (by CVP)  
**On:** Tuesday 24<sup>th</sup> August 2021  
**Before:** Employment Judge Martin  
**Members:** Mrs B Kirby  
Mr D Morgan

***Representation:***

**Claimant:** In Person  
**Respondent:** Mr A Williams (Employment Consultant)

## REASONS ON REMEDY

1. The claimant gave evidence at the remedies hearing on his own behalf. No additional documents were provided to the tribunal. The tribunal considered the reserved judgment given to the parties on 14<sup>th</sup> May 2021; the claimant's original witness statement and sick notes for the period June – October 2018; the latter which were provided in the original bundle.
2. The law which the tribunal considered was as follows:
3. Section 49 (1) (b) of the Employment Rights Act 1996 which provides that where an employment tribunal finds the complaint under Section 48 (1) the tribunal shall make a declaration to that effect and may make an award of compensation to be paid by the employer to the complainant in respect of the act or failure to act to which the complaint relates.
4. Section 49 (2) – the amount of the compensation awarded shall be such sum as the tribunal considers just and equitable in all the circumstances having regard to (a) the infringement to which the complaint relates and, (b) any loss which is attributable to the act or failure to act which infringed the complainant's right.

5. The tribunal also considered the case of *Virgo Fidelis Senior School v Boyle* [2004] ICR1210 where the EAT held that it was appropriate to adopt the same approach to compensation in whistle-blowing detriment claims as has been taken in discrimination cases. This means that a tribunal may award damages for injuries to feelings and in doing so should adopt the general principles in the case of *Vento* and the guidelines in that case.
6. The tribunal also considered the case of *Vento v Chief Constable of West Yorkshire Police 2* [2003] IRLR102 where the Court of Appeal set out three broad bands of compensation for injury to feelings. The top band which it identified for serious cases, the middle band being for cases which would not merit an award in the highest band and the lower band being less serious cases where there is an isolated or one-off occurrence. The tribunal also noted the Presidential guidance on the *Vento* bands which was updated April 2021 which provided that the bands were as follows:
  - the lower band is now £900 to £9,100
  - the middle band £9,100 to £27,400 and
  - the higher band is £27,400 to £45,600
7. The tribunal also considered Regulation 6 of the Employment Tribunals Interest on Awards in Discrimination Cases Regulations 1996 which provides that, in the case of any sum for injury to feelings, interest shall be awarded for the period beginning on the date of the contravention or act of discrimination complained of and ending on the date of calculation.
8. This case came back before this tribunal following its reserved judgment on 14<sup>th</sup> May 2021. It came back before us to consider remedy, albeit that we would have expected the parties to have tried to agree remedy on this outstanding issue following our judgement. The issue of remedy was in respect of the complaint which had been upheld, namely for making a protected interest disclosure on three days being 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> June 2018 when the claimant disclosed defects on a truck to his employer, which on each occasion he was required to drive.
9. The claimant, in his evidence, said that he reported the defects on each occasion and was told on each occasion to complete the journey and bring the truck back. On the second day, the claimant described an incident when the truck he was driving veered from one side to the other towards an articulated lorry. He described feeling scared and, when questioned by the tribunal said that he was scared for his own life and indeed the life of other road users. The claimant said that, when he told his employer about the defect, he was told to complete the delivery of the car and bring the truck back to the depot. He described the second incident vividly in his evidence and how the truck started to veer again, following his complaint of the previous day, this time into an articulated truck and how scared he felt.
10. When the claimant was given the truck on the third day, he decided to effectively take it for a short test run. He said he realised that the truck still had the same defects. He said he reported them again, albeit that the respondent says that they had repaired the vehicle. The claimant said he then went home. He felt he

could, and indeed did not, drive the truck for the rest of that day or indeed thereafter.

11. The claimant then went off on sick leave, initially for a back injury, for a period of a month. In evidence to the tribunal today the claimant said that, when he had gone to see his doctor on that occasion, his doctor had initially not signed him off for depression, as she did not want to do so, but had signed him off for a back injury from which he was still suffering. He was however subsequently signed off for work-related stress for a number of months; effectively until his employment terminated.
12. From his evidence and demeanour to the tribunal today, it is clear that he is struggling with his mental health and has various issues. He describes ongoing depression. In his witness statement to this tribunal in the substantive hearing, he focussed very little on the protected interest disclosures he had made, as most of his evidence focussed on allegations relating to racial discrimination and bullying/harassment which claims were not upheld.
13. In his evidence today the claimant described his protected disclosures and how scared he had felt about driving the truck and the impact on his depression. He did, however, effectively go on in the course of his evidence to comment again on concerns about his wages claim and other matters relating to the original proceedings for which he was not successful, other than in relation to the protected interest disclosures and part of his wages claim.
14. In his submissions the claimant indicated he was seeking losses relating to his injury to feelings which he says are substantial. The respondent's representative submitted that there were no direct losses related to the detriment claims and that any injury to feelings should be in the lower band.
15. This tribunal notes that there were three disclosures made by the claimant and that he effectively suffered three detriments by being required to drive the truck, which he was concerned was defective, on three separate sequential occasions. On the last occasion he chose not to drive the truck.
16. In his evidence, he still vividly recalled the incident on the second occasion when he veered into an articulated lorry and, when he again reported the defect to his employer, he was still required to drive the truck. He clearly still feels the impact of how he felt on that occasion and how scared he felt about driving the truck, which he considered to be defective and a risk to him and other road users
17. It is quite clear to the tribunal that the claimant did feel scared and was concerned about driving the truck which he was required to do as part of his role with his employer. Although he appears to have initially been signed off sick for back pain for a month, we note he was nevertheless subsequently signed off sick for work-related stress.
18. Although it is clear to this tribunal that his injury to feelings relating to anxiety and depression relate in part to these disclosures, they are clearly much wider and relate to other matters, as is indicated in both in his witness statement originally

to this tribunal and the evidence which he gave to this tribunal today about on-going issues relating to depression which are much wider and clearly relate to concerns beyond the three detriments he suffered as a result of these disclosures. This tribunal nevertheless consider that the events on the second day triggered his sickness absence and appear to be a trigger, at least, in part for his reluctance to attend work and his subsequent work related stress.

19. It is quite clear from his evidence today that his depression is much wider than the issues relating to the disclosures which he made in respect of the truck. However, he clearly had concerns about those disclosures and they clearly impacted upon him - he reported the defects on three separate consecutive occasions; he can still vividly recall the incident on the second day with the articulated lorry; and then after that incident, having checked the truck on the next day, and reporting it again after experiencing the same problems, he went off sick ultimately with work related stress.
20. Taking account of all of those matters, this tribunal considers that the award to injury to feelings should be at the top of the lower band which is effectively the same as the bottom of the middle band. In that regard the tribunal notes that the claimant suffered three detriments and the tribunal has particularly noted the injury to feelings suffered by the claimant in relation to the second incident, which he still vividly recalls today some three years later. The tribunal also accept the claimant's evidence that the work-related stress was caused partly by his concerns about returning to work to drive the vehicle which he considered to be defective and note that he was subsequently signed off for work-related stress for several months up to effectively the date his employment terminated. However, we do not accept that his depression only relates to those matters, as it is clearly much wider than the detriments he suffered in respect of these disclosures. Nevertheless, we consider the detriments from those disclosures was effectively the trigger for his being signed off sick for back pain in the first instance and then work related stress, due to his reluctance to return to work to drive what he considered to be a defective truck.
21. For those reasons this tribunal is awarding the claimant the sum of £9,100 for injury to feelings.
22. The claimant is entitled to interest on that award. He is therefore also awarded interest on that award from 28<sup>th</sup> June 2018 at the current rate of interest, on such awards of 8%, which amounts to the sum of £2,297.
23. Accordingly the claimant is awarded compensation for detriments for making protected interest disclosures in the sum of £11,397.

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**EMPLOYMENT JUDGE MARTIN**

**JUDGMENT SIGNED BY EMPLOYMENT  
JUDGE ON**

4 November 2021

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