



EMPLOYMENT TRIBUNALS

Claimant: Miss A Curtis

Respondent: Milltek Sport Ltd

REMEDY JUDGMENT

The decision of the Tribunal is that the respondent is ordered to pay the claimant the following sums:

1. Basic Award: **£3,150**
2. Grossed up compensatory award : **£60,922.99**

Reasons

3. Following the reserved liability judgment in the above matter, dated 6 October 2021, the parties provided written representations on the calculation of the heads of compensation awarded by the Tribunal. The parties were invited to confirm whether they had any objection to the matter being dealt with on the papers and raised no objection, the Tribunal has determined the judgment therefore based on their respective written submissions.
4. The claimant submitted its calculations on 8 November 2021. The respondent submitted its response to the claimant's calculations on the 15 November 2021 and the claimant in turn replied to the points the respondent had raised. The claimant sensibly suggested that the parties discuss between themselves the remaining points in dispute over the calculations however failing to reach agreement, the respondent wrote to the Tribunal on the 6 January 2022 requesting that the Tribunal consider the parties submissions on the calculations and provide its judgment .
5. The representations have been considered in full and the Tribunal consider that the claimant's calculations are to be preferred and in response to the four points raised by the respondent in response to the claimant's calculations, the Tribunal find as follows;
 - 5.1 The pension employer and employee pensions contributions have not been calculated twice. The claimant has applied the net salary calculations and calculated pension loss separately.

5.2 The dates relied upon as referred to at page 74 of the liability judgment are correct, the Tribunal rounded up the number of months loss but had also specified the exact period of loss and it is correct that those exact dates have been; they total 80 weeks and 3 working days.

5.3 The claimant has calculated the grossing up figure accurately. The respondent has not, it applied a tax percentage to a net tax figure, which is incorrect. To gross up the net figure the following calculation is to be applied;

$$\text{Tax paid} = \text{Gross}(G) - \text{Net}(N)$$

$$\text{Net}(N) \text{ is } = \text{Gross}(G) * (1 - 0.2) = \text{Gross}(G) * 0.8$$

$$\text{Gross}(G) \text{ is therefore } = \text{Net}(N) / 0.8$$

$$\text{Tax Paid} = (\text{Net}(N) / 0.8) - \text{Net}(N)$$

$$\text{Tax Paid} = \text{Net}(N) * (1/0.8 - 1) = \text{Net}(N) * (1.25 - 1)$$

i.e. Tax to be Paid (Grossed Up Amount) = Net(N) * 0.25 not 20% of the Net Amount as stated.

$$= £27,258.39 \times 0.25 = \mathbf{£6,814.60} \text{ (applying a 20\% tax band)}$$

5.4 The basic award has not been added twice in the claimant's calculations as alleged by the respondent.

6. The claimant's calculations are as follows;

Compensatory award;

- i. *Loss of salary and benefits from 8 November 2019 to 26 May 2021*
- ii. *Loss of statutory rights =£ 500*
- iii. *Injury to feelings =£4,750*
- iv. *Acas Uplift = £15%*

Net monthly : £2,054.88

Net weekly: £474.20

8 November 2019 – 26 May 2021: 80 weeks and 3 days

Loss of salary:

$$£474.20 \times 80 \text{ weeks} = £37,936$$

$$£474.20 / 5 * 3 = £284.52$$

$$£37,936 + 284.52 = £38,220.52$$

Pension

Employee contributions = £110 (monthly)

£25.38 (weekly)

Employer contribution = £82.50 (monthly)

£19.04 (weekly)

Employee contribution for 80 weeks and 3 days =

£2030.40 + £15.23

=£2,045.63

Employer contributions for 80 weeks and 3 days=

£1,523.20 + £11. 42

=£1,534.62

£2,045.63 + £1,534.62 = £3,580.25

3. Total compensatory award:

Loss of salary = £38,220.52

Loss of statutory rights = £500

Pension = £3,580.25

Injury to feelings + £4,750 [to be grossed up in accordance with Timothy James Consulting Ltd v Walton [2015] IRLR 368]

=£47,050.77

Acas uplift : £47,050.77/100 x 15 = £7,057.62

Total compensatory = £54,108.39

Compensatory grossed up;

Tax free amount of £30,000 = £26,850 (compensatory award) + £3,150 (basic award)

£54,108.39 (total compensatory award) - £26,850 (tax free amount from compensatory award) = £27, 258.39 – subject to tax

Annual Income = £33,000

Date of termination = 8 November 2019

Basic rate tax rate = 20%

£27,258.39 / (100 – 20 = 80) = £6,814.60

Compensatory award plus grossing up = £54,108.39 plus £6,814.60 = £ 60,922.99

7. Applying the claimant's calculations the respondent is ordered to pay the claimant the following sums;

- a. Basic Award: **£3,150**
- b. Grossed up compensatory award : **£60,922.99**

Employment Judge R Broughton

Date: 28 February 2022

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