



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms C Diavita

v

Baker Hughes Limited

Heard at: London Central (by video)

On: 30 and 31 May 2022

Before: Employment Judge E Burns
Mr P de Chaumont-Rambert
Mr R Miller

Representation

For the Claimant: Mr L Davies, solicitor

For the Respondent: Ms O Dobbie, Counsel

JUDGMENT

- (1) The unanimous decision of the Tribunal is to award the Claimant the following by way of unfair dismissal compensation:

Basic award: £1,333.50

Compensatory Award: £20,958.75

The calculations are attached as an appendix.

- (2) For the purpose of the Employment Protection (Recoupment of Benefits) Regulations 1996, we note the following:

Grand total	£20,958.75
Prescribed element	£10,824.09
The period of the prescribed element	14 February 2019 to 31 May 2022
Excess of total over prescribed element	£10,134.66

Appendix – Calculations

Relevant Information

Date of termination	14.02.2019
Claimant's complete length of service at date of termination	7 years
Claimant's age at date of termination	49
Gross weekly earnings (cap applied)	£508
Net weekly amounts	
Wages	£825.56
Car allowance	£57.59
Life insurance	£36.75
Private medical expenses insurance	£36.54
Denplan	£4.62
Employer pension contributions	£202.75
Subtotal of benefits excluding car allowance	£280.66
Net Bonuses ¹	
2018 – 82%	£3,696.22
2019 – 87.80%	£5,653.79
2020 - 60%	£3,863.64
2021 - 119%	£7,662.89
Notional Earnings (from mid Nov) ²	
Wages	£638.77
Life insurance	£36.75
Private medical expenses insurance	£36.54
Denplan	£4.62
Employer pension contributions	£202.75
Total period of loss (date of termination to remedy hearing)	172 weeks
Period of full loss (9 months)	39 weeks
Balance of time to remedy hearing ³	133 weeks

¹ Based on 15% of net salary excluding car allowance. Based on 0 for the 30% element with the annually applied percentage for the 70% element for each year

² Based on an annual gross salary of £50,000 and assuming the Claimant makes employee contributions of £450 per month

³ The loss for this period is made up of net weekly wages of £186.79 plus net weekly car allowance of £57.59 plus bonuses

Calculations**Basic award**

1.5 x 7 x £508	£5,334.00	
less 75%		£1,333.50

Compensatory Award***Prescribed Element***

Past losses (wages)	172 x £825.56	£141,996.32	
Earnings (actual)		-£11,939.55	
Earnings (notional)	133 x £638.77	-£84,956.41	
Subtotal		£45,100.36	
Polkey	less 80%	£9,020.07	
Acas	increased by 20%		£10,824.09

Non Prescribed Element

Benefits	39 x £280.66	£10,945.74	
	172 x £57.59	£9,905.48	
Bonus		£20,876.53	
Loss of Stat rights		£500.00	
Subtotal		£42,227.75	
Polkey	less 80%	£8,445.55	
Acas	Increased by 20%		£10,134.66

Total compensatory award**£20,958.75⁴**

Employment Judge E Burns
31 May 2022

Sent to the parties on:

01/06/2022.

For the Tribunals Office

⁴ We found the Respondent was entitled to summarily dismiss the Claimant. HMRC Guidance (EIM13890) applies so there is no tax liability by virtue of sections 401D-E of the Income Tax (Earnings and Pensions) Act. The full compensatory award is therefore tax free by virtue of section 403 of the same Act as it is less than £30,000.