



IN THE EMPLOYMENT TRIBUNAL (SCOTLAND) AT GLASGOW

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**Judgment of the Employment Tribunal, on Remedy, in Case No:
4102653/2022 Heard at Edinburgh on the Cloud Based Video Platform on
9th August 2022 at 10 am**

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Employment Judge J G d'Inverno

Mr Angelo Bruno

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**Claimant
Not appearing and not
represented**

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Eclipse Generics Limited (In Administration)

Respondent

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL ON REMEDY

Further to the Judgment on Liability entered by Employment Judge McPherson at Glasgow on the 20th of June 2022 and issued to parties on the 21st June, the Judgment of the Employment Tribunal on Remedy is:-

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(First) That the respondent shall pay to the claimant the sum of **£150** being a sum equivalent to the unauthorised deduction made, by the respondent from the claimant's wages, contrary to the provisions of section 13 of the Employment Rights Act 1996, for the pay period April 2021.

5 **(Second)** The respondent shall pay to the claimant the sum of **£3,626** in compensation for the respondent's breach of contract in dismissing him without his minimum 7 week statutory entitlement to notice and being a sum equivalent to 7 weeks net pay.

10 **(Third)** The respondent shall pay to the claimant gross and without deductions the sum of **£8,415** in respect of the 90 day Protective Award made in terms of paragraph 7 of Judge McPherson's Judgment of 20th June 2022 and being a sum which is not subject to the statutory cap of weekly wage.

15 **(Fourth)** The claimant's claim for 1.25 days holiday pay, accrued but untaken as at the Effective Date of Termination of employment 9th May 2022, having already been satisfied by the Insolvency Service in June 2022, by payment to the claimant of the sum of £92.50 falls away and is dismissed.

20 **(Fifth)** The claimant's entitlement to a redundancy award having been partially satisfied in June of 2022 by payment made to him by the Insolvency Service in the sum of £5,559, there is due and resting owing to the claimant a balance of entitlement to redundancy payment of £151.

25 **(Sixth)** The respondent shall pay to the claimant a balancing amount of £151 in respect of the claimant's entitlement to a redundancy award.

30 **Employment Judge: J d'Inverno**
Date of Judgment: 10 August 2022
Entered in register: 12 August 2022
and copied to parties

I confirm that this is my Judgment in the case of Bruno v Eclipse Generics Ltd (In Administration) and that I have signed the Judgment by electronic signature.

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REASONS

1. This case, in which the Joint Administrators of the Respondent Company have not entered appearance but have consented to proceedings, called for a Remedies Hearing on the Cloud Based Video Platform in terms of paragraph **(Second)** of, and further to, the Judgment on Liability entered in favour of the claimant by Judge McPherson on, the 20th of June 2022.
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2. The case called over for Hearing at the appointed and notified time namely 10 am on the 9th of August 2022. There was no appearance by or on behalf of the claimant who, as recently as 8th of August, had been reminded by the Tribunal of the requirement that he attend.
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3. Three attempts by the clerk to make contact with the claimant on the telephone number and at the email addresses provided by him proved unsuccessful. On 3rd August however the claimant had sent to the Tribunal correspondence from the Insolvency Service dated 6th June 2022 which provided some of the information required for Remedy and further confirmed that the Insolvency Service had partially satisfied the claimant's claim for a redundancy payment and had fully satisfied his claim for accrued but untaken paid annual leave entitlement by paying to him in June 2022 respectively the sums of £5,559 (gross in respect of his redundancy entitlement) and of £92.50 net in respect of 1.25 outstanding days of paid annual leave entitlement.
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4. In the circumstances being satisfied that sufficient information was now before the Tribunal, I have proceeded to a Determination of the Remedy issues in the absence of the claimant.
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5. On the detail of the claim presented in the initiating Application ET1 and upon the documentary evidence available, I make the following essential Findings in Fact restricted to those relevant and necessary to the Determination of the issues.
6. The claimant, whose date of birth was 22/10/74 worked for the respondent between 04/08/2014 and 09/05/2022 on which latter date he was summarily dismissed for reason of redundancy.
7. 09/05/2022 was the Effective Date of Termination of the claimant's employment.
8. The claimant was entitled to receive a statutory redundancy payment of 10 weeks gross weekly pay limited, in terms of section 227 of the Employment Rights Act 1996 and the Employment Rights (Increase of Limits) Order 2022 Number 182 to the applicable statutory limit on a week's pay. For persons dismissed for reason of redundancy on or after the 6th of April 2022 the applicable statutory limit is £571 per week.
9. The Effective Date of Termination of the claimant's employment being 9th May 2022, £571 is the applicable cap.
10. The claimant's relevant gross weekly wage was £552.40 and relevant gross daily rate was £93.50.
11. The claimant's relevant net weekly wage was £518 and relevant net daily wage was £74.
- (a) The gross weekly wage capped at £571 falls to be used in the calculation of the claimant's entitlement to redundancy payment.
- (b) The claimant's gross daily wage falls to be used in respect of calculation of the protective award.

(c) The gross wage is not subject to limitation in respect of the protective award.

5 (d) The claimant's net weekly and net daily wages fall to be applied in respect of the calculation of arrears of wages or compensation in respect of accrued but untaken paid annual leave entitlement (holiday pay).

10 12. On 6th of June 2020, the Insolvency Service paid to the claimant a redundancy payment of £5,559. That payment was calculated using the by then outdated statutory cap on weekly wage of £555.90. The redundancy payment to which the claimant was entitled by use of the then applicable statutory cap of £571 was £5,710 (10 weeks x £571 per week). The
15 claimant's entitlement to a redundancy award has been satisfied by the Insolvency Service only to the extent of £5,559. There accordingly remains due and resting owing to the claimant an entitlement in respect of redundancy payment of £151 in respect of which amount I have entered Judgment.

20 13. On 30th June 2022 the Insolvency Service made payment to the claimant in the net sum of £92.50 in respect of 1.25 days of accrued but untaken paid annual leave entitlement. That claim has been fully satisfied by the Insolvency Service and accordingly falls away and is dismissed.

25 **Employment Judge: J d'Inverno**
Date of Judgment: 10 August 2022
Entered in register: 12 August 2022
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I confirm that this is my Judgment in the case of Bruno v Eclipse Generics Ltd (In Administration) and that I have signed the Judgment by electronic signature.

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