



EMPLOYMENT TRIBUNALS

Claimant: Mr A Chaudhry

Respondent: Cerberus Security and Monitoring Services Ltd

Before:
Employment Judge JM Wade (in chambers)

Introduction: The Tribunal deliberated in this case on 3 July 2023 and reached a unanimous reserved decision that the claimant's unfair dismissal and victimisation complaints succeed. I give these orders in chambers to enable remedy to be disposed in the case. Either side has liberty to apply to vary these orders. The remedy issues to be determined (on the basis of the facts already found in the reserved judgment, or to be found at the remedy hearing) appear below. They are those identified in the orders sent to the parties on 30 January 2023, annotated with a summary of the relevant findings or materially changed circumstances since those orders were given.

REMEDY ORDERS

- 1 By no later than 42 days from the sending of these orders, the claimant shall give disclosure to the respondent by providing copies of documents concerning all matters asserted in his schedule of loss, but for the avoidance of doubt, to include:
 - a. payslips/invoices/bank statements evidencing earnings from dismissal to date (with an obligation to update that disclosure up to the date of the remedy hearing);
 - b. any document relating to employment or engagement by "Triguard" or any other employer or party paying him for his services;
 - c. his HMRC record for the same period.
- 2 The parties shall seek to agree remedy taking into account the findings and conclusions of our liability Judgment.
- 3 The parties may jointly by agreement or separately apply to the Tribunal for a remedy hearing to be listed.

- 4 Such application shall include a timetable with proposed or agreed directions for approval.
- 5 To the extent a remedy hearing is not sought after 12 weeks from the sending of these Orders, the file will be closed.

Date 6th July 2023

SENT TO THE PARTIES ON

Date: 7th July 2023

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FOR THE TRIBUNAL OFFICE

Remedy Issues

Remedy for unfair dismissal

1. If there is a compensatory award, how much should it be? The Tribunal will decide:
 - 1.1. What financial losses has the dismissal caused the claimant? *The claimant's health has been such that the Tribunal may come to determine whether the claimant's ill health was the cause of any lost earnings, rather than dismissal.*
 - 1.2. Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job? *The claimant's disclosure may address these matters.*
 - 1.3. If not, for what period of loss should the claimant be compensated?
 - 1.4. Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason? *The Tribunal will have to address this issue – see also below, but for victimisation, would the claimant have been dismissed in any event?*
 - 1.5. If so, should the claimant's compensation be reduced? By how much?
 - 1.6. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply? *The code applied;*
 - 1.7. Did the respondent or the claimant unreasonably fail to comply with it? *the Tribunal has decided it was not observed in relation to the separation of investigation/decision; the question for the Tribunal was whether this was an unreasonable failure to comply with the Code.*
 - 1.8. If so is it just and equitable to increase any award payable to the claimant? By what proportion, up to 25%?
 - 1.9. If the claimant was unfairly dismissed, did he cause or contribute to dismissal by blameworthy conduct? *The Tribunal has decided that the claimant did engage in conduct by falling asleep on duty; by not patrolling when recorded*

and by recording control room calls inaccurately; and by failing to set the alarm – the question will be the extent of the blameworthiness of this conduct.

- 1.10. If so, would it be just and equitable to reduce the claimant's compensatory award? By what proportion?
- 1.11. Does the statutory cap of fifty-two weeks' pay apply?
2. What basic award is payable to the claimant, if any?
3. Would it be just and equitable to reduce the basic award because of any conduct of the claimant before the dismissal (*see above, if the respondent wishes to rely on additional conduct before dismissal, it must say so*)? If so, to what extent?
4. Remedy for discrimination or victimisation
5. Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?
6. But for the victimisation, would the claimant have been dismissed in any event? If not, what financial losses has the discrimination caused the claimant?
7. Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
8. If not, for what period of loss should the claimant be compensated?
9. What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?
10. Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?
11. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply? *see above*
12. Did the respondent or the claimant unreasonably fail to comply with it? *See above*
13. If so is it just and equitable to increase or decrease any award payable to the claimant?
14. By what proportion, up to 25%?
15. Should interest be awarded? How much?
16. When these proceedings were begun, was the respondent in breach of its duty to give the claimant a written statement of employment particulars or of a change to those particulars? *This matter is settled by the decision of the Jones Tribunal – written reasons had been provided by the start of these proceedings.*

