



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

Mr P Caveney

BLE Lighting and Power Ltd

REMEDY HEARING

Heard at: Leeds by CVP

On: 4 September 2023

Before: Employment Judge O'Neill

Ms J Lee

Mr L Priestly

Appearance:

For the Claimant: Mrs A White (Legal Executive Advocate)

For the Respondent: Mr Sellars (Management Team)

With Mr Arnold and Mr Sutcliffe Managers in the Respondent business

RESERVED JUDGMENT- REMEDY

The Claimant is awarded the following sums

Basic award	£ 408.00
Compensatory award including statutory rights	£ 2,167.34
Total	£ 2575.34

REASONS

Background

1. The claim of unfair dismissal having succeeded the matter was set down for a remedy hearing. A finding of 75% Contribution had already been made. The Judgement was reserved in order to allow Mrs White time to attend a hospital appointment.

Concessions.

2. In discussion the claimant conceded
 - that no claim had been made in the ET1 or at all for compensation in respect of holiday accumulated but not taken and therefor such a claim may not be considered at this hearing.
 - that no claim for notice pay had been made in the ET1 or at all and that such a claim may not be considered at this hearing.
 - That no money claims had been made under Paragraph 8 ET1 at all.
3. In discussion the respondent agreed
 - That loss of statutory rights should be £250
 - That pension loss should be £980.25
 - That no counterclaim having been made by the respondent the Tribunal had no jurisdiction to deal with the recovery of training costs or credit card payments by the Respondent.

Evidence

4. The Tribunal heard from the claimant and Mr Sellars. Each had provided a written statement which was taken as read. Mr Sellars cross examined the claimant. Mrs White chose not to cross examine Mr Sellars in view of the concessions made. Each answered questions from the Tribunal.
5. There was an agreed Bundle paginated and indexed of 236 pages.

Findings

6. The parties agreed the core facts set out in Appendix 1 – Details.
7. Mr Caveney gave undisputed evidence of having had a 2018 Volvo S20 2 litre car which he was entitled to drive for personal use. He paid for the petrol and made an expenses claim when he used it for business mileage. All expenses such as repair, recovery and insurance were met by the respondent. Mr Caveney claimed compensation of £4000 being the cost of a Vauxhall Astra he purchased to replace his company car. He has not been given a company car with the new firm.
8. In the Bundle the Tribunal saw a P11D in which for the 6 weeks in tax year ending April 2020 the value of the Company car was given as about £900 ie £150 a week on which the claimant would have been taxed. This value appears consistent with the government guidance to which we were referred.

Conclusions

9. The parties were in agreement as to the core details from which our calculations have been made and also agreed pension loss and loss of statutory rights.
10. The point of dispute related to the loss of a company car. The claimant claims a replacement cost of £4000. The Respondent argues that the compensation should be calculated on the value of the benefit.

The claimant has found employment at a higher salary than in his job with the respondent but has never had a company car.

Taking the value in the P11D and offsetting the approximate tax that the claimant would have paid and the likely depreciation after April 2020 we conclude that £4000 is not inconsistent with the HMRC method and we award £4000 before deductions.

11. We award the following sums as set out in Appendix 1 below

Basic award	£408.00
Compensatory award including statutory rights	£2,167.34
Total	£2,575.34

4 September 2023

Employment Judge O'Neill

Appendix 1

1. Details

Date of birth of claimant	30/07/1972
Date started employment	01/02/2019
Effective Date of Termination	01/12/2021
Period of continuous service (years)	2
Age at Effective Date of Termination	49
Date new equivalent job started or expected to start	28/02/2022
Remedy hearing date	04/09/2023
Date by which employer should no longer be liable (Save for the car loss)	28/02/2022
Statutory notice period (weeks)	2
Net weekly pay at EDT	473.44

Gross weekly pay at EDT	639.42
Gross annual pay at EDT	33,250.08
2. Basic award	
Basic award	1,632.00
Number of qualifying weeks (3) x Gross weekly pay (544.00)	
Less contributory fault (basic award) @ 75%	-1,224.00
Less redundancy pay already awarded	0.00
Total basic award	408.00
3. Compensatory award (immediate loss)	
Loss of net earnings	6,012.69
Number of weeks (12.7) x Net weekly pay (473.44)	
Plus loss of statutory rights	250.00
Plus loss of commission and/or bonus	0.00
Less payment in lieu	0.00
Less ex-gratia payment	0.00
Less non-recoupable benefits	0.00
Less early payment of compensation	0.00
Plus Company Car	4,000.00
Plus loss of pension	980.25
Less sums obtained, or should have been obtained, through mitigation	-2,573.56
new employment (12/12/2021 to 27/02/2022)	
Total compensation (immediate loss)	8,669.38
4. Adjustments to total compensatory award	
Less Polkey deduction @ 0%	0.00
Plus failure by employer to follow statutory procedures @ 0%	0.00
Less failure by employee to follow statutory procedures @ 0%	0.00
Less deduction for making a protected disclosure in bad faith @ 0%	0.00
Less contributory fault (compensation award) @ 75%	-6,502.04
Accelerated payment @ 0%	0.00

Compensatory award before adjustments	8,669.38
Total adjustments to the compensatory award	-6,502.04
Compensatory award after adjustments	2,167.34

5. Summary totals

Basic award	408.00
Compensation award including statutory rights	2,167.34
Total	2,575.34

2,575.34