



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr S Putt**

**V**

**Goodfish Limited**

**Heard at:** Birmingham in chambers

**On:** 16 August 2023

**Before:** Employment Judge Broughton  
Mr D Spencer  
Mr J Kelly

**Appearances:**

Written submissions

## RECONSIDERATION AND RESIDUAL REMEDY JUDGMENT

1. We refer to our earlier decisions on liability with written reasons and remedy (delivered orally).
2. There were a few outstanding calculations and issues that it was hoped that the parties would be able to resolve between themselves but, regrettably, they were unable to do so.
3. In any event, since the last hearing the Claimant had applied for a reconsideration on a couple of points and, subsequently, made an application for costs.
4. Both parties agreed that these matters could be addressed on the papers and there was no need for further evidence or attendance at a hearing. Accordingly, the panel were reconvened as soon as practicable.

## Reconsideration

5. The claimant raised the fact that our judgment on remedy did not address his claim for loss of the life insurance benefit that came with his employment with the Respondent.
6. The Respondent's position was that, as the Claimant had not sourced replacement cover and was still alive, there had been no loss.
7. However, we acknowledge that the benefit of such insurance is not limited to the value in the event of death but also the peace of mind that comes with having such a policy in place, especially in the Claimant's circumstances.
8. As a result, we accept this as a valid head of loss and the Claimant is entitled to be compensated based on the chances of him accepting the lower-level role we identified and an equivalent level of cover for that role (2 years' pay - £54000).
9. In the absence of any alternative figures, we accept that the monthly cost of such cover would be around £300, which should be discounted by 50% in accordance with our previous findings.
10. The Claimant also wanted us to revisit the period of future loss we determined in January 2023, based on what is now known about his job and mitigation prospects.
11. We remind ourselves that projections of future loss are inherently speculative and would not, without more, be grounds for a reconsideration if it subsequently transpired that we had been too pessimistic or optimistic.
12. In this case, we acknowledge the Claimant's ongoing health challenges and how these may have negatively impacted his job search. We also recognise the Respondent's submission that these principally relate to the impact of his cancer, such that he may have been in nil pay, or even dismissed fairly for capability had he remained employed by them.
13. In those circumstances, we are satisfied that our original judgment on remedy, awarding losses to the end of this month, should stand.
14. We are concerned that the Respondent does not appear to have made any payment of the undisputed remedy sums. If so, they are reminded that any further delay could give rise to another claim, financial penalties and / or costs.

**Costs**

15. The Claimant made an application for costs but did not identify any valid potential grounds for such an award.
16. It principally appeared to relate to disagreement about how the Respondent argued their case on liability, yet the costs were said to have been incurred in the applications for reconsideration of our previous judgments on liability and remedy which were, largely, unsuccessful.
17. In any event, at £12500, the costs claimed were excessive.
18. No arguable basis for a costs award has been presented at this time.

**Outstanding remedy points**

19. We then had to consider the position on recoupment or deducting benefits received from the Claimant's financial losses.
20. It appeared that the Claimant's benefits may have been impacted by his health and apportionments with his wife. As a result, the fairest solution is to make the financial loss to date award for unfair dismissal and leave the matter of recoupment, if any, to the benefits agency.
21. We accept that interest of 8% should be added to the injury to feelings award from the date of discrimination and to the lost earnings to date from the midpoint between the date of termination and today.
22. Loss of statutory rights should be reduced by the Polkey percentage.
23. Accordingly, we award the Claimant (based on the figures in his schedule which have not been disputed, past losses calculated up to the date of the original remedy hearing and interest calculated to date) the amounts overleaf:

Loss of		
statutory rights	(less 50%)	£ 250
past pension		£ 965
wages		£24145
life insurance		£ 3150
Future loss to 31 August 2023 (30 weeks)		
wages		£ 7789
pension		£ 312
life insurance		£ 1050
Injury to feelings		£ 19000
Interest		£ 5777
Total		£62438

Note: subject to recoupment and / or tax

24. We have used the gross wage figures as the £30k tax exemption would be fully utilised by the other awards.

25. The relevant period for recoupment is from 20 April 2021 to 31 January 2023. The figure subject to recoupment is £24145.

26. The remaining £38293 is payable immediately.

Employment Judge Broughton

Date: 16 August 2023