



# EMPLOYMENT TRIBUNALS

Claimant: Mr A Brompton

Respondent: Openreach Ltd

HELD at Sheffield ET by CVP

ON: 18 and 19 September 2024

BEFORE: Employment Judge Brain

## REPRESENTATION:

Claimant: Miss H Gardiner, Counsel

Respondent: Ms A Jervis, Advocate

# JUDGMENT

The Judgment of the Employment Tribunal is that:

## Unfair Dismissal

1. The claimant was unfairly dismissed by the respondent.
2. Save for the issues in paragraphs 3 – 5 below, remedy shall be determined at a subsequent hearing.
3. It is not just and equitable to make a reduction to any basic award by reason of the claimant's conduct before he was served with notice of dismissal.
4. There shall be no reduction to any compensatory award to reflect the chance that the claimant would still have been dismissed even if a fair procedure had been followed or for some other reason by application of the principles in **Polkey v A E Dayton Services Limited** [1987] IRLR 503 HL.
5. It is not just and equitable to make a reduction to any compensatory award by reason of the claimant's conduct.

## Holiday Pay Claim

6. It is declared that:
  - 6.1. The claimant had no contractual entitlement to carry forward unused annual leave entitlement in holiday year 1 April 2022 to 31 March 2023 into the holiday year commencing 1 April 2023.

- 6.2. The claimant had a statutory right to carry forward unused annual leave entitlement in holiday year 1 April 2022 to 31 March 2023 vested in him by Regulation 13 of the Working Time Regulations 1998.
- 6.3. Remedy (if any) shall be determined at a subsequent hearing.

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**Employment Judge Brain**

Date: 23 September 2024

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Sent to the parties on:

Date: 1 October 2024

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For the Tribunal:

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Note - Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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**Recording and Transcription**

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

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