



EMPLOYMENT TRIBUNALS

Claimant: Mr L Warren

Respondent: Arriva UK Bus Limited

Heard at: Bristol Employment Tribunal sitting via CVP (Remotely)

On: 18th September 2024

Before: Employment Judge Lambert

Representation:

Claimant: Mr Farzaneh, student

Respondent: Mrs Royle, solicitor

JUDGMENT ON REMEDY

I make the following awards:

1. **Basic Award**

£2,569.50

Calculated as:
3 years' service (25.11.19 – 27.01.23)
@ 1.5 (Claimant over 41 years for all service)
@ Maximum weekly wage of £571.00

2. **Compensatory Award**

Polkey

The relevant period of loss, based on my assessment of Polkey, is from the date of dismissal (27.01.23) until the date the Claimant was informed that his appeal, heard as full rehearing and correcting most of the earlier deficiencies in process was not successful (19.05.23), a period of 16 weeks.

The parties agreed the Claimant's net weekly loss was:

Salary:	£1,044.02
Employer Pension Contributions:	£260.49
Providing a net weekly loss of	<u>£1,304.51</u>

The Compensatory Loss is therefore £1,304.51 x 16 weeks = £20,872.16

3. I have assessed the period of loss as 16 weeks in accordance with Polkey for the reasons set out in the liability judgment.

Overpayments/Expenses – Agreed Sum To Be Deducted

4. The parties have agreed that I should deduct an overpayment made to the Claimant of £3,000.69 less any expenses owed to him £1,078.00. This is a net deduction of £1,922.68.

ACAS Code Uplift

5. I consider that the Respondent unreasonably failed to comply with the ACAS Code of Practice for the reasons set out in the liability judgment, including its failure to provide the Claimant with the written evidence prior the initial disciplinary hearing. Paragraph 9 of the ACAS Code provides that it would "...normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification." The Respondent failed to do so. I consider 10% to be the appropriate uplift to the compensatory award:

£20,872.16 - £1,922.68 = £18,949.48 @ 10% = £20,844.43

Contributory Fault

6. For the reasons set out in the liability judgment, I have found that the Claimant's conduct was the justifiable reason for his dismissal and to reflect his conduct., it is just and equitable to reduce both the basic award (Section 122(2) of the Employment Rights Act 1996 ("the **ERA**")) and the compensatory award (Section 123(6) of ERA) by 80%. Therefore, the Claimant shall receive:

Basic Award: £2,569.50 @ 20% = £513.90

Compensatory Award: £20,844.43 @ 20% = £4,168.86

7. The total sum payable to the Claimant by the Respondent within 14 days of the date of this judgment is £4,682.76.
8. I do not consider an award to reflect the loss of statutory rights is appropriate in the light of my findings in relation to contributory fault.
9. The Recoupment Regulations do not apply to these awards.

Employment Judge Lambert

Date: 18 September 2024

JUDGMENT SENT TO THE PARTIES ON

1 October 2024

Jade Lobb
FOR THE TRIBUNAL OFFICE