



EMPLOYMENT TRIBUNALS

Claimant: David Steel
Respondent: Openreach Ltd

Midlands West Employment Tribunal
In Person

On: 5th, 6th & 7th August 2024
2nd, 3rd December 2024
6th December 2024 (Deliberations)
7th January 2025 (Judgment)
9th January 2025 (Remedy)

Before: Employment Judge Gidney
Tribunal Member Howard
Tribunal Member Virdee

Appearances

For the Claimant: David Fields (Union Representative) in August 2024
Tom Cooper (Union Representative) in December 2024
For the Respondent: Amy Jervis (In house Advocate)

JUDGMENT

The Judgment of the Tribunal is that:

- 1. The Claimant's claim of discrimination arising from disability, pursuant to s15 Equality Act 2010 ('EqA') is dismissed.**

2. **The Claimant's claim of harassment related to disability, pursuant to s26 EqA, is dismissed.**
3. **The Claimant's claim of unfair dismissal, pursuant to s98 Employment Rights Act 1996 ('ERA') is upheld.**
4. **The compensation due to the Claimant is £3,807.06, as set out in the attached Schedule at Annex 1.**

Recoupment Prescribed period 17/02/2022 to 09/01/2025

Compensation cap total award £3,807.06

Prescribed element £3,325.31

Balance £481.75

Employment Judge Jonathan Gidney

Mr Rajpal Virdee

Mr Nicholas Howard

Approved on 9th January 2025

"The reasons for this decision were given orally at the hearing. Written reasons will not be provided unless they are asked for by a written request presented by any party within 14 days of this written judgment being sent to the parties.

Public access to employment tribunal decisions: Note that both judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the parties".

Annex 1 – Schedule of Remedy Calculations**1. Details**

Date of birth of claimant	28/11/1985
Date started employment	02/09/2019
Effective Date of Termination	16/02/2022
Period of continuous service (years)	2
Age at Effective Date of Termination	36
Date new equivalent job started or expected to start	22/08/2022
Remedy hearing date	09/01/2025
Date by which employer should no longer be liable	22/08/2022
Statutory notice period (weeks)	2
Net weekly pay at EDT	418.06
Gross weekly pay at EDT	510.78
Gross annual pay at EDT	26,560.68

2. Basic award

Basic award	1,021.56
Number of qualifying weeks (2) x Gross weekly pay (510.78)	
Reduced by 25% Polkey then 50% Contribution in the sum of £638.48	-638.48

Total basic award	383.08
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3. Compensatory award (immediate loss)

Loss of net earnings	11,162.20
Number of weeks (26.7) x Net weekly pay (418.06)	
Plus loss of statutory rights	500.00
Reduction to reflect SSP and bonus from dismissal (16.2.22) to being fit for work (22.4.22) is: £418.06 - £142.78 = £275.28 x 9 weeks	-2,477.52
Plus Digger License	1,980.00
Less sums obtained through mitigation at Travelstar (29/04/2022 to 01/06/2022)	-2,034.06

Total compensation (immediate loss)	9,130.62
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4. Adjustments to total compensatory award

Less Polkey deduction @ 25%	-2,282.66
Less contributory fault (compensation award) @ 50%	-3,423.98
Compensatory award before adjustments	9,130.62
Total adjustments to the compensatory award	-5,706.64
Compensatory award after adjustments	3,423.98

5. Summary totals

Basic award	383.08
Compensation award including statutory rights	3,423.98
Total	3,807.06

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Compensation cap total award £3,807.06

Prescribed element £3,325.31

Balance £481.75