



EMPLOYMENT TRIBUNALS

Claimant: Mr Tony Wright

Respondent: R.H. Claydon Ltd

RECONSIDERATION of REMEDY

The application for reconsideration is granted.

The Judgment of the Tribunal following reconsideration is that the Respondent shall pay the Claimant the sum of £28,774.60 as compensation to the Claimant for wrongful dismissal and unfair dismissal made up of:

- a. Damages for wrongful dismissal of £1336.12*
- b. Unfair dismissal - basic award of £2838.48
- c. Unfair dismissal - compensatory award of £24,600*

**subject to any adjustment required for income tax and national insurance contribution purposes on the sums awarded for lost pension contributions which have been awarded as a gross sum*

REASONS

1. On 5 August 2024, the Respondent made an application for reconsideration under Rule 71 of The Employment Tribunals Rules of Procedure 2013 of the written remedy judgment which was sent to the parties on the 22 July 2024. Judgment on remedy had been given orally at the hearing on the 4 June 2024.
2. The basis for the application was that the Tribunal has failed to apply the Statutory Cap to the compensatory award and that the award should be varied so that the compensatory award does not exceed £24,600.00 as the Statutory Cap of 52 weeks' pay.
3. I previously decided, on 19 November 2024, that there were reasonable prospects that the Respondent's application for reconsideration would succeed. This was because it does not appear that any of the exceptions to the Statutory Cap applied and the compensatory award made appeared to exceed 52 weeks' pay.
4. I made further case management orders including that the parties inform the Tribunal of their views as to whether the reconsideration application could be dealt with without a hearing. Both parties have confirmed that they are content

for the reconsideration application to be dealt with on the papers without the need for a hearing.

5. The parties agree that the Claimant's annual gross salary was £24,600.
6. Section 124 of the Employment Rights Act 1996 provides that:
124 Limit of compensatory award etc.
(1) The amount of—
(a) any compensation awarded to a person under section 117(1) and (2), or (b) a compensatory award to a person calculated in accordance with section 123, shall not exceed the amount specified in subsection 1ZA.
(1ZA) The amount specified in this subsection is the lower of—
(a) [£93,878 for the year in which the Claimant's employment ended], and (b) 52 multiplied by a week's pay of the person concerned.
7. Sub-sections 124(1A)-124(4) ERA then provide for certain exceptions and adjustments to the general rule.
8. Reconsideration is granted because none of the exceptions to the Statutory Cap apply and the compensatory award made exceeds 52 weeks' pay. The compensatory award is therefore limited to the sum of £24,600.
9. Damages for wrongful dismissal were not previously included in the calculation of the award as that would have amounted to double counting. Given that the Statutory Cap has been applied, the award below is adjusted to include those damages for wrongful dismissal that would otherwise have been included, as it is just and equitable to do so given the application of the Statutory Cap.
10. The amended award is calculated as follows:

CALCULATION OF AWARD

Gross salary per annum: £24,600

Gross weekly pay: £473.08

Net weekly pay: £384.89

Dates of employment: 1/6/2018 -23/2/2023

Date of birth: 16/7/1971

Age at time of dismissal: 51 years

DAMAGES FOR WRONGFUL DISMISSAL (FAILURE TO PAY NOTICE PAY)

4 weeks at £408.54 per week (net weekly pay of £384.89 plus employer's pension at £23.65 per week) =£1634.16*

Less £298.04 paid by Respondent for 24/2/2023 to 28/2/2023 (£283.85 pay plus pension contribution of £14.19)

Total = £1336.12

UNFAIR DISMISSAL AWARD

A. Basic Award

6 Week's pay (4 weeks x 1.5) x £473.08 = £2838.48

Total Basic Award: £2838.48 [A]

B. Compensatory Award

The Claimant has been awarded damages for wrongful dismissal for the period 29/2/2023 to 24/3/23 so, to avoid double counting, the compensatory award is calculated from the day after the notice period ended.

Immediate Loss (loss of wages (net) from 25/3/2023 to date of remedy judgment) £384.89 per week from 25/3/2023 to 4/6/2024 (62 weeks and 3 days):
= £24,028.13

Less net sums earned between 25/3/2023 to 4/6/2024 (80.04 +173.93): £253.97

Immediate Loss Total =£24,028.13 - £253.97 = £23,774.16 a Future Loss of earnings (loss of wages (net) from date of remedy judgment for 12 weeks):
£384.89 x 12 = £4618.68

b Loss of employer's pension contributions (from 25/3/23 to date of remedy hearing only) (Respondent paid £23.65 per week: £1476.44 gross*)

**The sums awarded for loss of employer pension contributions are awarded gross and so are subject to any adjustments required for income tax and national insurance purposes which are to be deducted by the Respondent as necessary*

c. Loss of statutory rights - £500

Total (a) +(b) + (c) = £ 6595.12

Total Compensatory Award before adjustments =£30,369.28

Breach of ACAS code -10% increase of £3036.93 = £33,406.21

Polkey reduction: 0%

Reduction for Contributory Fault- 10% reduction of £3340.62 = £30,065.59

Total Compensatory Award after Adjustments=£30,065.59

Statutory Cap on Compensatory Award = £24,600

Total Compensatory Award after Statutory Cap applied = £24,600 [B] **Grand**

total A + B = £2838.48 + £24,600 = £27,438.48

**Approved by:
Employment Judge Boyes**

Date: 3 April 2025

**Judgment Sent to The Parties On
16 April 2025**

FOR EMPLOYMENT TRIBUNALS

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