



EMPLOYMENT TRIBUNALS

Claimant: Mr Guy Aime Wahema Wanya

Respondent: Barts Health NHS Trust

Heard at: East London Hearing Centre (by CVP)

On: 30 April, 1-2 May and 4 June 2025

Before: Employment Judge Gardiner

Representation

Claimant: Mr Soloman Airhuoyo-Obazee, solicitor

Respondent: Mr Joshua Yetman, counsel

JUDGMENT ON REMEDY

The judgment of the Tribunal is that:-

1. Had the Claimant's employment continued beyond the point at which he resigned, the Claimant would have been on sick pay at half his contractual pay rate, as he would have continued to be unfit for work.
2. The Claimant would have resigned his employment within three months in any event even if he had not been constructively dismissed. Furthermore, as a result of the Claimant's unreasonable failure to mitigate his loss, he is not entitled to recover for any loss of earnings after a period of three months.
3. The appropriate reduction to the Claimant's compensatory award under Section 123(6) Employment Rights Act 1996 (dismissal caused or contributed to by any action of the Claimant) is one-third.
4. It is not appropriate to make an award for loss of statutory rights in circumstances where the Claimant's employment would have ended within three months when, on his own case, he was unfit to work.

5. The remedy for the Claimant's constructive unfair dismissal claim is as follows:
- a. Basic award: $(£1713.55 \times 12)/52 = £395.43 \times 5 \times 1.5 = £2965.73$.
This is to be reduced by one third for contributory conduct = £1977.15.
 - b. Compensatory award: £1297.16
 - i. Two months net loss of sick pay (after discount for contributory conduct) at the rate of half contractual pay. This is half of full contractual pay, namely £1713.55 gross per month ie £856.78 gross per month (£582.61 per month net at marginal tax and NIC rate) = £1165.22
 - ii. Two months loss of pension contributions (after discount for contributory conduct). This is $£856.78 \times 2 \times 7.7\% = £131.94$ net.
 - iii. Loss of statutory rights: £0
 - iv. Total: $£1165.22 + £131.94 = £1297.16$.
6. Therefore, subject to any need to correct these figures for clerical mistake and accidental slips under Rule 67 of the Employment Tribunal Rules 2024 the total sum due to the Claimant is $£1977.15 + £1297.16 = \underline{£3274.31}$

Employment Judge Gardiner
Dated: 8 July 2025

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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