



EMPLOYMENT TRIBUNALS

Claimant: Mr S Donnelly

Respondent: DFDS (Guernsey) Limited

Heard at: Ashford (by video)

On: 30 March 2026 & 1 May 2026 (In Chambers)

Before: Employment Judge Corrigan
Ms S Dengate
Mr R Singh

Appearances

For the claimant: In person

For the respondent: Ms Grennan, Counsel

Reserved Remedy Judgment

1. Following the Tribunal's finding that the Respondent contravened the Equality Act 2010 in respect of the claim of failure to make reasonable adjustments the respondent is ordered to pay compensation to the claimant of £47,089.22.
2. This sum consists of:
 - Injury to feelings of £20,000
 - Loss of earnings of £16,495.61
 - Loss of share option £2308
 - Pension loss of £912.93
 - Interest on the injury to feelings award of £4,936.20
 - Interest on the combined financial loss of £2436.48
3. The interest has been calculated as simple interest which accrues from day to day at the current rate of 8% giving

- 3.1 a daily rate of £4.38 per day for the period: 1 April 2023- 1 May 2026 (1127 days) for the injury to feelings award;
- 3.2 a daily rate of £4.32 for the period 15 October 2024 (midpoint of the above period) to 1 May 2026 (564 days) for the financial losses award of £19,716.54.
4. Following the finding of constructive unfair dismissal the claimant is awarded the sum of £13,542.20 to be paid by the respondent to the claimant.
5. This sum consists of:

Basic award of £15,432
Compensatory award of loss of statutory rights £500
15 % deduction for contribution - £2,389.80
6. No recoupment applies to this award as there is no compensatory element.

Reasons

7. We had further evidence from the claimant and from Mr Ellison and Mrs Powell on behalf of the respondent. There was a remedy bundle and further information about the claimant's universal credit payments was sent in prior to the In Chambers meeting.
8. The respondent acknowledged we have to make broad brush decisions based on what might have happened if there had not been a failure to make reasonable adjustments and invited us to make deductions based on a number of possible eventualities as set out in the respondent's schedule of loss. The respondent was content for loss of earnings for the equivalent of the claimant's notice entitlement should be compensated at the rate he was paid at the respondent in his original role, and it follows that pension loss for that period should also be awarded at the 6 % rate, otherwise compensation has been calculated at the DFDS rates. We have done the loss of earnings based on a substantive on-shore role not a seasonal role. The vacancies and the fact some of the vacancy holders were retained after the summer season show that the relevant work on-shore was needed throughout the period we are considering.
9. The shore side role involves checking vehicles from a seated position within a small heated booth. Some are at car height (tourist) and some are at lorry height (freight). It also involves marshalling vehicles boarding the vessel. That involves quickly moving across lanes so that vehicles could board promptly. There is also a drivers' reception which involves ticket sales and also checking-in hazardous loads involving a vehicle check including looking underneath the vehicle. Post holders do all the roles on rotation save that additional experience and training is needed for hazardous loads. There were some load masters that worked mostly on the park but otherwise the roles are rotated. Nevertheless a postholder could be required to sit for many hours.

10. The claimant was capable of the role save possibly the upper level of check-in due to having to climb up to it and stretch out to the driver of the vehicle to pass documentation.
11. There are 12 hour shifts. Some staff do 8 hour shifts. 8 hours is usually a minimum but it is possible that an adjustment can be made to that. The respondent provided the costings for the 8 hour shift option.
12. The usual recruitment process involves a short 15 minute test on general knowledge to see how a candidate responds to pressure and other tests involving data copying and booking into a spreadsheet and an interview. There is no evidence to suggest the claimant either would not have passed the tests or that he could not do the specific activities, save as set out above.
13. Although he still had a hope of returning to the ships, the claimant was asking about shore-side roles from the outset after his failed attempt to return to sea and would have taken a temporary position on shore at the earliest available opportunity once his sick pay reduced to zero. We find the relevant date for loss of earnings to be from 1 May 2023 as per the respondent's schedule.
14. The claimant would have had to manage his substantial physio commitment with the hours of work. He was also returning to work after an absence. We have therefore awarded loss of earnings from 1 May 2023 until shortly after the date he stopped providing fit notes (17 September 2023) on the basis of the reduced 8 hours a day option.
15. At that point (from 18 September 2023) the claimant said he was fit to work and to attempt to return to sea. Occupational Health examined him and confirmed he was fit to do a shore-side role that is not physically demanding with lifting and handling and pushing and pulling against heavy loads. He could not return to the ship due to the ENG3 but this would not have affected his ability to do a shore-side role. Although he needed to maintain his physio to avoid a decline we accept he could have maintained this around his working hours and we have awarded loss of earnings based on the 12 hour option from that point in September 2023.
16. Following the ENG1 and as a result of the impasse that followed the claimant's mental health was affected as set out in his witness statement. It affected his commitment to the physio which further impacted his health. We do not know whether there would have been the same impasse, with the claimant asking for more adjustments than occupational health recommended and the respondent then questioning his ENG1, if the claimant had been looking to return to ship from the position that he was already working in the shore-side role. It is possible that there would still have been the same impasse. It is possible that there would still have been impact on the claimant's mental health in any event, resulting from the lesser pay of the shore-side role, the impact of the length of time it took to get the ENG1 and a similar questioning of the ENG1 by the respondent. His health might still have deteriorated.

17. Even within the OH report there are outstanding questions about whether a return to sea will be feasible, with the need for the risk assessment for manual handling and the question over the impact of the movement and vibration of the ship. There is a disagreement between the parties as to whether the OH report was accurate as to the supervisory nature of the role and a recognition that some of the adjustments might not be feasible and a return might not work out. The claimant himself saw it as experimental and that if it did not work out it he would turn his back on the sea. We find that although there is a chance the claimant would have successfully returned to sea, more likely than not the return to the ship would not have worked out.
18. The claimant moved overseas in October 2025 which was when he was due to retire in any event.
19. There is a possibility he would have chosen to leave even without the failure to make reasonable adjustments. The shore-side role is less well paid. He might have chosen to mitigate his loss of earnings or he might have chosen to retire and leave the country earlier. There is also a possibility that his health would still have declined as it did. However we note that trialing a return to sea from the context of having work on shore-side would have been very different and the claimant may well have been much more resilient.
20. We continued to base the loss of earnings on the shore-side role on the basis a successful return to the higher paid sea based role is not likely. The exception was that we awarded a further 12 weeks pay from the termination date to reflect the notice period at the claimant's own rate of pay (given the respondent's concession above). The losses from the end of that period to the date the claimant moved overseas were then reduced by 50% to reflect all the possibilities above. We noted however that from the end of the notice period the claimant's universal credit was likely the same or more than 50% of ongoing loss of earnings and pension loss at the shore-side rate of pay. We therefore did not award any further loss of earnings/pension loss after that date.
21. The loss of earnings calculation is therefore:
22. £288 per week for 19 weeks approximately (1 May 2023- 17 September 2023) giving £5,472; £396 per week for 28 weeks approximately (18 September 2023- 31 March 2024) giving £11,088 and £431 for 1 April – 5 April 2024 (1 week approximately). This gives a total of £16,991 up to the date of termination.
23. The respondent agreed loss of earnings during the equivalent of the notice period. That was 12 weeks from 6 April to 28 June 2024 at the £560 per week rate. This came to £6,720.
24. This gave a total of £23,711 from which we deducted £7215.39 universal credit received in the same period. This included £291.22 out of the payment of £1055.69 made on 19 July 2024, reflecting the part of that payment was for the period up to 28 June 2024. This gave the total loss of earnings of £16,495.61.

25. Pension loss is awarded at the DFDS A/S rate of 3% save for the period equivalent to the notice period when it is awarded at 6% of the claimant's actual salary. That amounted to £164.16 for the period 1 May 2023-17 September 2023, £332.64 for the period 18 September 2023 -31 March 2024, £12.93 for 1-5 April 2024, and £403.20 for the period up to 28 June 2024.
26. This gave a total pension loss of £912.93.
27. We awarded the loss of the share option of £2038.
28. The respondent conceded an injury to feelings award in the middle Vento band would be appropriate. We agreed. The relevant band when the claimant commenced his claim was £11,200 – 33,700.
29. We found the injury to the claimant's feelings included the following. He had the financial worry resulting from no income from the date his sick pay ended over an extended period. He requested the reasonable adjustment of a shore-side role many times including through the grievance processes. This was ignored for a long time. He was suffering because of his health any way but the failure to make adjustments exacerbated that situation whereas the adjustments would likely have alleviated some of it. The warning in the occupational health report that the claimant's mental health was affected and would be assisted by the provision of a shore-side role was also ignored. It was a sad end to a long career and lengthy employment with the respondent.
30. The catalyst for the claimant's more severe decline in health was the impasse over his return to sea which he also contributed to with the unreasonable list of adjustments. Whilst the discriminatory treatment had some impact on his mental health his other health conditions were also taking a toll. We considered balancing all of this an award in the middle of the range of £20,000 is appropriate.
31. We declined to make an uplift. We considered that the respondent followed a process but the claimant took issue with the outcome of the internal processes. We did not consider there was an unreasonable breach of the ACAS Code of Practice that would justify an uplift.
32. Most of the award was made under the disability discrimination claim. With respect to the unfair dismissal the starting point was the basic award, agreed to be £15432 and loss of statutory rights of £500. We did not agree with the respondent's reasoning for not awarding loss of statutory rights. There was 18 months remaining before the claimant planned to retire and he had accrued the maximum statutory notice.
33. However we did consider that there was contributory conduct with the claimant making unreasonable demands for the list of adjustments above and beyond what occupational health recommended and adopting some unreasonable conduct during the impasse over the ENG1, for example accusing the respondent of falsifying minutes. We considered the appropriate deduction was

15%. We considered it appropriate to make that deduction from both parts of the award.

34. Our view is that there is no need to gross up this award as the elements that might be subject to tax are under the £30000 threshold but we did not hear from the parties on this so if either party disagrees they can write to the tribunal.

Approved by
Employment Judge Corrigan
23 July 2026

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