

Appeal No. UKEAT/0130/20/OO (V)

EMPLOYMENT APPEAL TRIBUNAL
ROLLS BUILDING, 7 ROLLS BUILDINGS, FETTER LANE, LONDON, EC4A 1NL

At the Tribunal
On 15 December 2020

Before

HIS HONOUR JUDGE JAMES TAYLER

(SITTING ALONE)

MR A DOBBIE

APPELLANT

PAULA FELTON T/A FELTONS SOLICITORS

RESPONDENT

SUPPLEMENTARY JUDGMENT

(FULL HEARING)

APPEARANCES

For the Appellant

MR EDWARD KEMP
(Of Counsel)

Instructed pursuant to the Direct
Access Scheme

For the Respondent

MS SUSAN CHAN
(Of Counsel)

Instructed by:
Feltons Solicitors
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A HIS HONOUR JUDGE JAMES TAYLER

1 At the conclusion of the judgment on the appeal in this matter I directed that:

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C **Within 14 days of the handing down of this Judgment, the parties are to send concise written submissions on the question of whether it will be open for the tribunal on remission, if it determines that the Claimant made protected disclosures, and that one or both were effective causes of the decision to terminate the consultancy agreement, to determine anew the issue of whether the Claimant's consultancy agreement would have been terminated at the same time absent the making of any disclosures that are established to be protected. I consider it is important that the tribunal that hears the matter on remission should have guidance on this issue. I will give a brief supplementary judgment dealing with this issue after consideration of the written submissions.**

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E 2 Both parties have responded stating that it is accepted that if the Claimant is successful in his claim on remission it will be for the employment tribunal to determine anew the issue of whether the Claimant's consultancy agreement would have been terminated at the same time absent the making of any disclosures that are established to be protected, as part of the usual process of determining remedy. Accordingly, as there is no dispute between the parties on this issue I do not consider it is necessary or appropriate for me to offer further guidance.

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G 3 I note that Ms Chan for the respondent has stated that the respondent may be unrepresented on remission and suggested that I give general guidance on how to deal with compensation should the claimant be successful on remission. I do not consider that is appropriate. Ms Chan has set out what she considers to be the relevant authorities in her written submission on this matter. That submission can be placed before the employment tribunal. The determination of remedy should the claimant be successful on remission is a matter for the employment tribunal to determine on the basis of its findings of fact on liability and the submissions made by the parties.

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