



Bulletin 145

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INCREASED EARNINGS POST DISMISSAL NOT TO BE DEDUCTED FROM 'FUTURE LOSS'

In the case of *Islam Channel Ltd v Riley* the Claimant, Ms Riley, secured freelance work after her dismissal that, up to the date of the hearing, had paid her £5,000 more than her previous job. However, the work was insecure and by the time of the hearing her pay had reduced to £512 per month less than her previous salary.

Ms Riley's unfair dismissal claim included a claim for one year's future loss from the date of the hearing. Her former employer argued if such an award was to be made the £5,000 she had received prior to the hearing in excess of her previous salary should be set off against compensation awarded for her loss of earnings after the date of the hearing.

The Tribunal held that Ms Riley's freelance income was "inherently insecure" and awarded her one year's future loss. Further, it held that it would not be just and equitable to deduct the extra £5,000 she had earned from "insecure" freelance work from the award.

This decision was upheld by the EAT following an appeal by Ms Riley's former employer.

🔑 Practical Tips

This case serves as a reminder that Tribunals must award what they consider to be *just and equitable in all the circumstances* and may take into account factors such as whether subsequent employment is secure.

In the current economic climate, it is foreseeable that many employees will allege that subsequent employment is unsecure and employers should be aware that this may increase the amount of compensation payable.

It is also of note that the Tribunal considered the Claimant's claim for one year's future loss as "modest", suggesting that Tribunals will look more favourably on claims for much longer periods during a recession.

As always, care should be taken when dismissing employees, and advice taken if necessary, to avoid unfair dismissal claims arising in the first place.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to helen.calvert@brabnerscs.com

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