



BURNS

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Friday, 7th February, 2014.

Under Secretary of State
Mr. B.Lewis MP, Minister for the Fire Service.
The Department of Communities & Local Government
Workforce Pay & Pensions
Eland House,
Bressenden Pl,
London.
SW1E 5DU

My Ref: PB00514.
Your Ref:140205.

The Error - Synopsis.

In October 1964 Belfast Fireman Reg No:392 Burns P.P. , was injured in an explosion at operations in the city. His hearing was damaged.

In January 1997 after 33.5 years of pensionable service and 6.5 years earlier than his intended completion of his 40 years service, Divisional Fire Officer Reg No: 516 Burns P.P., was compulsorily medically discharged by Lancashire County Fire Brigade because of permanent hearing loss.

The LCFB awarded him an Ill-health Pension with a 'qualifying' Injury Award. When calculating his initial pension the LCFB paid him the wrong pension. They underpaid him by paying a 30 year(service completed) 'Ordinary Pension' in error. The Fire Brigade refused to correct their error when it was pointed out to them. The Fire Authority must pay the correct pension henceforth and make the necessary adjustments in underpayment.

This unsophisticated issue is not a question of law but the correct application of the existing law and simple accountancy.

Dear Minister,

Thank you for your email response of the 5th inst., in response to my *first* correspondence of the 6th ultimo.

It is appreciated that circumstances outside the control of the DCLG move on particularly in respect of the Pensions Ombudsman and it is clear that I am required to provide clarification with respect to the intended investigations of the Pension Ombudsman in the future because presently, as matters stand, no lawful action can be taken by him(see attached) because of the disobliging attitude of Lancashire.

I believed in my *second* comprehensive letter to you of the 21st ult., I addressed the point that the LFRS were continuing to be tedious and frankly unhelpful where the spirit of IDRPs demands that common-sense ought to be applied in the circumstances where it is clear, up to and including CFA level, that the IDRPs process has already been exhausted.

I dealt with the point thus:

"In general, my personal feelings in this matter are best summarised in comment I have expressed in my re-visited IDRP Stage I Application. No doubt you will have access to it so I will not repeat it here. But I do suggest to you that the insistence of the LFRS in a matter already fully canvassed is so simply time wasting, that it can hardly be thought to be consistent with upholding the traditions of public service in any laudable way. Indeed, it is deplorable in the light of the history and correspondence in this matter for any pretence to be made that – in fact – the process has not already been exhausted.

Nevertheless following discussions reflected in correspondence from the Pensions Ombudsman I have re-commenced this 'exercise in waste' at a time when fiscal 'waste' is supposed to be on all Local Authorities' minds.

Now that your department is aware that the Pensions Ombudsman cannot investigate until this wasteful IDRP which re-commenced on the 16th January 2014 is exhausted on the 16th April 2014, 3+ months hence, this would seem to me to present the DCLG with opportunities.

The opportunity not only for your department to implement the requests in my letter of the 21st ult., but as an adjunct an opportunity to investigate and quietly resolve an issue by departmental intervention and the application of sound common-sense by your Pension Team in its inescapable fiduciary duty of care to me and as a Trustee of all Fire Pension Schemes including Lancashire.

It is also an opportunity to circulate, and you have my permission to do so, all this documentation of interest to the Members of the Firefighters Pension Committee which in any event I will ultimately publish on my website www.themorningbugler .

This is *not* a question of law it is the correct *application* of the existing law by simple accountancy.

I await you further response with interest.

Yours Sincerely,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)
HM-t-Q-LSGCM



For Exemplary Fire Service

Oklahoma Medal of Honor
& Honorary Citizen.



Soviet Union
Order of Excellent Fire-fighter.



Mr Paul Burns
7 Kings Drive
Fulwood
Preston
Lancashire
PR2 3HN

Our Ref: PO-3946
10 January 2014

Dear Mr Burns

Firefighters Pension Scheme (the Scheme)

I write further to our recent telephone conversation and to the voicemail message I left for you earlier today.

When we spoke I mentioned that we cannot normally investigate a complaint against those responsible for the management of a pension scheme unless the complaint has been considered under the pension scheme's internal dispute resolution (IDR) procedure. I mentioned that I would contact Mr Bob Warren at Lancashire Fire and Rescue to see if your complaint has been through the Scheme's IDR procedure. I have spoken to Mr Warren and he has confirmed that your complaint has not been through the Scheme's IDR procedure. This means the complaint is outside of our jurisdiction.

To satisfy the requirement for the IDR procedure to be completed, we need you to invoke the Scheme's IDR procedure. In a letter on file from Bob Warren it says that an application form needs to be obtained from Your Pension Service. Their address is:

Your Pension Service

PO Box 100

County Hall

Preston

PR1 0LD

Each pension scheme is responsible for its own IDR procedure. I would suggest that you telephone Your Pension Service and ask for them to send you a copy of the form referred to or details of whatever is required to invoke the IDR procedure. Having checked their website it seems that their contact telephone number is 01772 530530.

If you do not receive a response to your complaint under the IDR procedure within the time limits laid down within their IDR procedure, or if they say that they will not consider your grievance under it, please let me know. As it stands however, your complaint is outside of our jurisdiction so I have closed our file.

When we spoke I also mentioned that we cannot normally investigate complaints that have been subject to court proceedings. You mentioned that the complaint you now want us to consider has not been subject to court proceedings. The extent to which it has or has not been subject to court proceedings is something that we will need to consider after your complaint has been considered under the IDR procedure. When you reply I would therefore be grateful for details of the issue that was subject to the court proceedings.

I hope that this letter explains what we need before we will be able to consider the matter further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'PS', enclosed within a circular scribble.

Paul Strachan
Investigator

020 7630 2221
paul.strachan@pensions-ombudsman.org.uk



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symbolseeker999@gmail.com

Monday, 13th January 2014.

BURNS

My Ref: PB00214.
Your Ref: PO-3946

**Pension Complaint
Against the
Lancashire Fire & Rescue Service**

Dear Mr.Strachan,

Thank you for your letter of the 10inst which I regard as most helpful.

You have raised two important issues and I would like to deal with them in reverse order, namely, Court Proceedings, and IDR. One cannot proceed without the other.

Court Proceedings - I can confirm that my Complaint has not been the subject of formal Court proceedings or a Judgement.

In point of fact my pension entitlement, the subject of my Complaint to the LFRS/CFA and subsequently to the PO, was specifically excluded by Mr.Jutices Males in a High Court Order (See Attached).

Briefly, Mr.Warren attempted to surreptitiously include the issue of the incorrect/underpayment of my pension which is the substance of the current dispute under the guise of the Striking Out of my Counterclaim on a separate matter against the LFRS/CFA(Attached Correspondence). Mr.Jutices Males would not allow that.

My Barrister immediately picked up this sleight-of-hand and wrote to Mr.Justice Males objecting to what he professionally saw as not only an unlawful act but that which he regarded distastefully as more disgraceful misconduct on Warren's part. We simply regarded this as an act of a desperate man and quite typical of Warren's continuing misbehaviour as a so called local authority civil servant.

I am including a copy of this High Court correspondence to provide the PO with absolute clarity in this matter and to prevent Warren re-visiting this yet again in his obvious time wasting posturing.

IDR-This naturally leads me to the IDR which is simply more charades and flagrant time wasting on Warren's part on a procedure which I believe has already been exhausted but I am also conscious that there cannot be a hint of a cloud that the IDR has not been formally and procedurally invoked and completely exhausted before placing this before the PO for adjudication. So I take your point and patience must win the day.

To that end and following the helpful advice you have given me I have today requested that the IDR standard forms be forwarded to me by the LFRS pension contractors the LCC Pensions Services so that I may once more commence Stage I of these IDR procedures.

I anticipate in more timewasting that this will proceed to Stage II where I will yet again recycle the documents before you and I will patiently exhaust the procedure to the letter. I shall once more send the full 'package' of my Complaint to Warren and the CFA Committee at both Stages with an accompanying letter from my Barrister ensuring that he and the LFRS/CFA adhere strictly to the legal time framework required for the processing of my Complaint and if they fail to do so I shall as you helpfully suggest contact the PO.

Normally the LFRS fail to comply with time frames sometimes by hours and sometimes by days. It is an arrogant attitude which is now accepted as their de regueur. I shall as you might expect allow no tolerance where IDR compliance is required.

I imagine this may take several more months with Warren using the excuse that the full Committee of the CFA do not meet until this or that date rather than use the Chairman's discretion and authority in the matter whilst 'forgetting' that the matter has already been put to the Full Committee and rejected, or so Warren has stated on two separate occasions though I have considerable doubts about the veracity of those brief statements.

In the interim I will copy any correspondence to you(including this) as encrypted PDF as you website recommends and will of course communicate the password to you by vox.

Thank you once more. Your helpful attitude is refreshing.

Yours Sincerely,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)
HM-t-Q-LSGCM



For Exemplary Fire Service

Oklahoma Medal of Honor
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Claim Number: PR090110.

Lancashire Combined Fire Authority-v-Paul Peter Burns

Further-Response to Costs Claim

Dear Justice Males,

I note the letters from the CFA were dated 15th July, 2013. I apologise for not having sent this to the Court earlier. I was on a short break. I only returned home to open it on Sunday 21st July, 2013.

1. I am unsure as to whether the Court has been furnished with Mr Warren's reply to my letter seeking his 'authority' for the pension he pays me but I attach it hereto.

Before I address costs I would be grateful if the Honourable Court would direct Mr Warren, further to H.H. Judge Butler's direction, that they answer me my pension queries, which Mr Warren he has now avoided on three separate occasions. The last occasion being a short direct request copied to this Court as the last letter in the material correspondence.

This is the correspondence Mr Warren was seeking to have struck out which if executed would have, as I understand it, silenced me. He pursued this by effectively hiding at the back of a large and repetitive bundle, what formed no part of the counterclaim and under a heading in no way relevant to the correspondence.

Now, when seeking costs, he resiles from this untenable position by claiming that what he had attached, the correspondence to the order to strike out, was not an attempt to silence me but actually, apparently, not to be struck out at all, it being included at the back end of a long repetitive bundle just to inform the Court of what was in the correspondence, though of no moment to the Court.

I suggest it was, at best, plainly disingenuous. But it is also very much in train with his consistent denial to me of what is needed to check his actions and in train with consistently misleading me as he does, yet again, in the attached letter; though he does correct one past misapprehension in admitting the law did not, as he implied, 'cap' a sum. But it should not be up to me to force this in this way. He is my pension provider with a duty to provide the honest answers.

In sum, what I seek help from the Honourable Court with is to have Mr Warren simply set out on what legal grounds goes the Lancashire Fire Authority Pension Scheme, administered by him, pay me a B1 Ordinary pension, the entitlement due to a fireman retiring early by choice, instead of a B3 ill-health pension (which the CFA determined in 1997) arising from injury suffered in the line of duty – a pension prescribed by law to compensate a fireman for his loss of career from the time of ill-health enforced retirement until required to retire on account of age. The Legislation makes express provision for such compensation. Mr Warren denies the legislation its intention.

He quotes from unspecified sources so, under a guise of complying, he consistently refuses to identify the legal authorities he relies on. The tenor of the attached letter is "it is not for me to justify my conduct or the pensions I pay you but for you to prove me wrong". I cannot think that to be correct in law because it is the pension provider who has a duty under law to calculate and provide a correct pension and clearly owes fiduciary duties to his pensioner, if so, then it

cannot be right that a pension provider can act with impunity and pay whatever sum suits the fund best – an Ordinary pension – instead of a higher compensatory pension, and then simply avoid questions by simply telling the pensioner, with no hope of affording a case to prove him wrong, that his pension is correct.

The Pension Ombudsman has remarked on the very considerable fraud, misfeasance, and malfeasance, found within the hundreds of local public service pension providers acting on the behalf of the State. If Mr Warren is right in what he is doing, then it begs the question why he avoids disclosure of what enables others to check up on what he is doing?

In this attached letter he reduces the issue to an absurdity by now saying in effect “you tell me in law where I am wrong but I am not going to tell you what law I am relying on”. That cannot be right, or fair, or honest. He is a public servant administering public funds and it is surely not for him to seek to play hide and seek to defraud - if that be the case - his pensioner in this way. In this letter he sets out the criteria for a B1 pension and he then highlights what applies to “Ordinary Pensions” – but a B1 pension is specifically denied by the legislation to anyone retired on an Ill-health Pension. But he blithely highlights text in some unidentified document even though it specifies “ordinary pensions” – which an Ill-health pension is not. He speaks of a DCLG document but the DCLG did not exist when I retired so what is he using with what authority? Is he relying on some sort of retrospective legislation? He demurs from legal considerations yet he is administering a pension fund – it is a self-defeating proposition and to deny legal responsibility or understanding and is disingenuous. Pensions can only be provided within a legal framework and no pension provider can effect to know nothing of it.

I would ask the Court to be so kind as to order Mr Warren to state precisely what is the authority, the whole of it, which he claims requires him to pay a B1 Ordinary Pension to an Ill-Health Pension retiree. He mentions a ‘guide’, what guide?; drafted by whom?; for whose guidance?; when?; and in respect of what pension legislation?

Only then can I be put in the position of knowing if I am being paid the correct pension. That surely has to be the basic right of any pensioner and the State goes to great lengths to make such rights and entitlements transparent.

2. Costs. It worries me a great deal to be critical in any sense of ‘power’ after my recent ‘experiences’ but as a layman I have tried to honestly and sincerely represent myself, learning all I can in the process and to adhere to the absolute integrity I have observed all my life, and is so important in the Fire Service where a small deviation from the fact can cost a life.

Maybe it makes me unfashionably old fashioned but when I read that a claimant has to come to Court with ‘clean hands’ I could not but help reflect that, as I see it, this pension provider has not been above trickery and using its powers, or position to avoid questions, nor has it shrunk from seeking to abuse the processes of the Honourable Court to go further and, in essence seek to pervert the course of Justice – for had I, a layman, seen the documents tacked on under a heading which gave no clue to content, my next letter in the line of correspondence would surely have drawn the answer ‘struck out’ which you cannot pursue further.

I would like to submit that it would not be just to give this claimant costs. This was not a bona fide step required to avoid a peril in law, they knew the Counterclaim was dead – it follows in the light of the attachment of what was not within the Counterclaim that it was a cynical attempt to silence me, by whatever means came to hand.

Otherwise, as to the schedule of costs amounting to some £23,000, on top of some £35,000 (£46,000.00 intotal), costs for the original action, the defence to the Counterclaim formed an intrinsic part of the pleadings within which the costs of drafting the defence was some £500, which I paid.

The claim was a simple one and the consideration charged for in the original costs charged, could not have avoided considering the Counterclaim for the defence to be drafted. Now, it would seem, it is being charged as though an entirely separate matter. The separation only came at my suggestion late in the day.

I do not know quite how one seeks to address such a matter but I would submit it cannot possibly be right for the costs to a simple recovery action which apparently justified costs after a week long hearing of £35,000, and to which the counterclaim was for me to prove, but and was essentially repetitive in complaint of misconduct, and drew no large pleading at the time, should suddenly should be properly expanded ex post facto by a sum vastly larger than that incurred in the trial.

In all these circumstance, I humbly submit that I should not be required to pay the claimants costs or, if by law a sum must be taken, then may I humbly pray that it be £1 to meet the justice of the matter.

In the alternative, an Order that each side pay their own costs.

And an Order "The Claimant to serve on the Defendant within 7 days full particulars of all legal authority relied upon by the Claimant in their consideration of the Defendant's pension; the legislation, any guides or other directions used, specifying authored by whom, when, for the guidance of whom, and the issuing authority and all other such matters required to make all such material accessible to the Defendant, and if any documents are not readily available, then to copy the same in full to the Defendant on his request and without delay".

I am grateful to the Honourable Court for its consideration.

Yours Truly,



Paul P. Burns. GIFireE
Divisional Fire Officer (Rtd)

Attachment.
Delivered by hand to the Court on this date.

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PRESTON DISTRICT REGISTRY

Claim No. PR090110

The Honourable Mr Justice Males



BETWEEN

LANCASHIRE COMBINED FIRE AUTHORITY

Claimant and Defendant to Counterclaim

And

PAUL PETER BURNS

Defendant and Counterclaimant

ORDER

UPON READING the Defendant's letters dated 16 and 22 July 2013

AND FURTHER to the Order dated 11 July 2013

IT IS ORDERED AND DIRECTED THAT:

1. The Defendant must pay the Claimant's costs of the Counterclaim.
2. Those costs (if they cannot be agreed) must be subject to detailed assessment on the standard basis.

OBSERVATIONS

As already explained, the usual order when any claim or counterclaim is discontinued is that the party discontinuing must pay the costs incurred by the other side. The Defendant may perhaps have assumed that, once the claim against him was determined, the Counterclaim would fall away, but that was clearly not the

understanding of the claimant or the Court. See paragraph 4 of the order of HHJ Butler dated 12 April 2013. It is clear that the Defendant never notified the Claimant that the Counterclaim would not be pursued. It was therefore reasonable for the Claimant, faced with a substantial and wide ranging Counterclaim, to incur costs applying for its summary dismissal. In these circumstances I see no reason why the usual order should not apply.

As for the amount of the costs which the Defendant must pay, these will have to be subject to detailed assessment if they cannot be agreed, although I would encourage the Claimant to make a reasonable offer and the Defendant to accept it in order to avoid further expense. If it is correct (see para 16 of the Defendant's 16 July letter and the final paragraph on page 2 of the 22 July letter) that some costs of the Counterclaim have already been paid, there must be no double recovery.

With the sole exception of any assessment of the amount of costs, these proceedings are now at an end. The court will not enter into or respond to correspondence or make further orders relating to the Defendant's pension. **If there remains a dispute about the Defendant's entitlement, that is outside the scope of this action.**

Dated the 22nd day of July 2013

Mr Paul Burns
7 Kings Drive
Fulwood
Preston
Lancashire
PR2 3HN

Our Ref: PO-3946
10 January 2014

Dear Mr Burns

Firefighters Pension Scheme (the Scheme)

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Preston

PR1 0LD

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I hope that this letter explains what we need before we will be able to consider the matter further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Paul Strachan', written over a circular stamp or mark.

Paul Strachan
Investigator

020 7630 2221
paul.strachan@pensions-ombudsman.org.uk