

Grounds of Appeal.

Concerning TDPO's Determination, concerning the pensions of 'Mr. N', the Deputy Pensions Ombudsman misdirected herself in law in some, or all, of the following ways:

1. The Crown paying a B1 time served pension to a retiree on grounds of ill health 97 days before he would have had to retire on account of age; she misdirected herself in law that Example 7 in the Home Office Commentary to SI 192 could be taken as evidence that the Crown intended that no compensation be paid for future financial loss occasioned by such enforced retirement.
2. She misdirected herself in law that the pension paid in Example 7 was a B1 pension rather than an enhanced 'notional pension' fully compensating to the date of being retired on account of age, and in full reflection of what 'he could have earned'.
3. She misdirected herself on the law of construction of documents and the 'Universal rule' *Rookes v Barnard* 1964 (AC) and drew an inference in law as to the meaning of statute not open to her, as a matter of law, to draw.
4. She misdirected herself on law and acted wrongfully to deny statutory intention and provision in place of common law entitlement though the statute used no language to exclude such statutory provision.

5. By her misdirection and misapplication of the law she, contrary to law, denied the Statutory ill health pension rendering the whole of ill health B3 provision, as specified at paragraphs 3, 4 and 5, redundant, null and void of meaning and superfluous to the statute, wrongfully replacing said provision in each instance by a time served ordinary B1 pension.

6. She misdirected herself, contrary to statute and in breach of its legal provision, in determining that when a Firefighter was being required to retire early on grounds of ill health they be paid, Including M.N., an ordinary time served B1 pension instead of a B3 ill health, enhanced, pension provided as compensation for financial loss occasioned by being required to retire early on grounds of ill health. She unlawfully determined that an ordinary time served B1 pension, due to any Firefighter retiring early of own volition, as though choosing to go and do other work, was also the ill-health pension due to Mr N, on being invalided out of service.

7. She misdirected herself into a Determination ultra vires by finding that [TDPO Determination Para 36] "I can see nothing in the legislation as drafted that is unclear on its face" to mean the legislative intention was to deny compensation for financial loss, so giving unlawful effect in her Determination by replacing B3 by B1 provision and, in so doing, rendering all ill-health provision redundant in the SI, save in nomenclature by calling a time served B1 pension, when being awarded to an injured Firefighter being forced to retire, a B3.

8. Though required by the law of construction of documents and otherwise under the 'universal rule', to give words their ordinary meaning, and adhere to it, she misdirected herself in drawing no distinction between the words 'is' and 'by reference to' used in the statute making B3 provision, but by conflating them, misdirected herself on a whim that in law they be taken to mean the same thing, thereby denying the purpose and intention of the statutory B3 paragraph 5 provision.

9. She misdirected herself in law as to the legal purpose and meaning of the Home Office 'Commentary' accompanying the promulgation of the SI and so denied herself the legal intention of the SI and its provision.

10. The Deputy Pensions Ombudsman has unlawfully misconstrued the SI and its terms of provision to illegal effect and by so doing has misdirected herself into wrongfully denying Mr N the ill health pension provided for him by statute, wrongfully putting in its place a time served BI pension; thus denying compensation of any sort due under the law for financial loss occasioned by being required to retire prematurely on grounds of ill health.

11. Though some misdirection may be no more than maladroit, some can only be construed as determined on a whim to make the law fit a predetermined outcome, relying on age, infirmity, poverty, and absence of legal aid to avoid correction of such ill-practice and its unjust, illegal, arbitrary, and oppressive results.

12. The Appellant humbly begs that the Honourable Court take judicial notice of such conduct and award such exemplary and/aggravated damages as the Honourable Court should deem appropriate.

13. May the Appellant, with the deepest of respect, make mention to the Honourable Court that having relied and trusted his pension provider to look after his interest, that that trust has been betrayed. That he has been impoverished over 21 years and deprived of much quality of life by a deliberate, callous, and fraudulent deception.

14. A deceit maintained even into TPO correspondence by Mr. N's pension provider in an earlier case cited as precedent in Mr N's Adjudication, upheld by TDPO, and here appealed.

15. That but for such deception by those in a fiduciary relationship with Mr N, he and others, would have seen the 'Commentary' published by the Home Office specifically to give him and other laypeople guidance and the ordinary meaning to the Statute.

16. That the 'Commentary' was wrongfully kept from Mr N, and others, denying him knowledge of his lawful pension entitlement and from knowing that calculation of his pension as a B1 pension was wrong in law and that the B3 provision was intended to be calculated on "... what you could have earned", as the lawful construction of the provision made by Statute at B3 paragraph 5.

17. He submits such conduct has been an unconscionable abuse of power and most oppressive and wholly arbitrary.

18. He submits it should not go unremarked that when he was injured and incapacitated for life and forced to retire on grounds of ill health he was wrongfully given a basic time served pension as though he has simply chosen to leave, fit and well, and by choice, instead of being given what the law provided for his enforced early retirement on grounds of ill-health.

19. The Appellant is humbly grateful to the Honourable Court for its consideration.

20. The Appellant asks The Honourable Court for his costs.

21. The Appellant claims interest and humbly submits that the time, sum and long loss, and high earlier interest rates make it fair and reasonable that the Honourable Court exercise of its discretion and awards interest at 5% compound per annum on the sum of pension sum withheld from him.

John M Copplestone-Bruce.

Inner Temple

15th. September 2019.

Take Further Notice of an Addendum to the Grounds of Appeal:

1. In that 1992 SI 129, at Rule K5 (3) provides that an ordinary B1 pension cannot be reduced save on Treason or Breach of the Official Secrets Acts, and that Rule K3 (1) provides that "where a person (a) is permanently disabled, and (b) has brought about or contributed to his infirmity by his own default, the fire authority may reduce any ill-health or injury award payable to him by them to not less than half its full amount", it follows that for the statutory provision to have meaning, sums awarded as ill-health or injury awards must per se, be 'reducible' or the sum is wrong in law. TDPO misdirected herself in law by determining the sum of a B3 ill health pension award was in the irreducible sum of a B1 pension due to Mr. N as if retiring by choice. By her misdirection she denies the statutory wording of Rule K3 (1) meaning, rendering it redundant, void and without legal effect, all contrary to law.

2. By misdirecting herself on the law TDPO set into conflict clauses of provision in the same statute by determining wrongfully that the statute intended no compensation for financial

loss, so wrongly determined an irreducible B₁ award be paid in place of a compensatory B₃ award, able to be reduced by up to “half its full amount”, and by so doing put B₃ (5) and K (3) into mutual exclusion, into conflict, rendering both to be without meaning, redundant, void, and without legal affect, all contrary to law.

John M Copplestone-Bruce.

Inner Temple

25th. September 2019.