



19th May 2020.

My Ref: FG88 - Without Prejudice 2 19-05-20

Without Prejudice.

In the High Court of Justice

Business and Property Courts of England and Wales

Chancery Appeals (ChD)

On appeal from a decision of the Deputy Pensions Ombudsman

on 10 September 2019 (ref: PO-19150)

Appeal ref: CH-2020-000043

BETWEEN



Appellant

And

LANCASHIRE COMBINED FIRE AUTHORITY

Respondent

Dear Chief Fire Officer,

One cannot have a document submitted to a judge as agreed facts with contentions in it. I note you have ignored my document in which all was agreed subject to the Judges finding.

I could agree your paragraphs 1, 2, 5, and new numbered 6, 7, 8, 9 (unchanged) . Otherwise your amended facts are not agreed and so nothing is agreed until the whole document is.

Para 3. There is no issue here – omit Rule 15 . It simply muddies the water. **Incorporate** in para 2.

Para 4 is to the point and material but there is no point in setting out the wording – **omit** italicised text.

I cannot see what objection can be taken to my **paragraph 5** it is factually correct – if not acceptable then please set out why not so that I may comment on the right basis to the Judge.

Your paragraph 10 is again a pejorative statement which is not true. It is suggested I agree that by index linking it "*is likely to have provided an increase in pension similar to any increase in salary had Mr. G [REDACTED] remained at work until aged 60*". At best it is 1/3rd less than salary to begin with, then there is a built-in diminisher in relative value: On every pay rise given to the salary earner there's none to a pensioner. It seeks to mislead the Judge.

Para 11. I do not disagree with adding the current calculation but if that is to be part of the evidence then clearly the judge ought to be put into a position of seeing the whole picture if settled. If not settled then it passes on in any event. Why would you not agree my A and B illustration – it clarifies the picture and removes doubt.

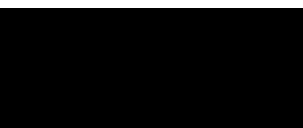
It is a matter for you. I would suggest that rather than ignoring my earlier document you consider it, as I have considered both of yours.

Essentially, if you will accept my amendments and add to your paragraph 11. **That calculation is marked A. Calculation B is the pension calculation, subject to correction, illustrating what the Appellant asserts was his properly calculated B3 notional pension under paragraph 5 SI 192 , amended gratuity and amended Injury pension, all set out to give context to the claim and to assist The Honourable Court.**

In your letter it seems you wish to avoid any canvassing of the point at issue. But Mrs. Justice Falk in her paragraph 3 whilst requiring that comment be upon matters that your facts place in issue does so by way of wording at paragraph 2 (c) "some information about the relevant pay scales and promotion arrangements, in particular as to whether progression was automatic".

My offer is not negotiable and is automatically withdrawn at midday Friday 22 May 2020. I would prefer to settle and present a common document to the Judge leaving her simply to decide what the law requires of her. But if not, and since I do not agree the language used in your assertions, you must make your submission to the Judge on which I shall then comment.

Yours sincerely,



Frank G [REDACTED]