

In January, a teacher contracted with a summer camp to serve as its head counselor at a salary of \$10,000 for 10 weeks, from the first of June to the middle of August. In March, the camp notified the teacher that it had hired someone else as head counselor and that the teacher's services would not be needed.

In April, the teacher spent \$200 traveling to interview at the only other nearby summer camp for a position as its head counselor. She was not chosen for that job. The teacher then took a position teaching in a local summer school at a salary of \$6,000 for the same 10-week period.

How much is the teacher entitled to recover as damages in a breach-of-contract action against the camp?

- A. \$4,000.
- B. \$4,200.
- C. \$10,000.
- D. \$10,200.

Explanation:

Expectation (ie, benefit-of-the-bargain) damages

Definition Losses arising naturally & obviously from breach

Purpose Place nonbreaching party in same position as if contract had been performed

Measure General rule – difference between contract price & market price (or cost of purchasing substitute performance)
Construction contracts – difference between contract price & cost of construction by another builder

The primary purpose of contract damages is to place the nonbreaching party in the same position as if the contract had been performed; therefore, the nonbreaching party is entitled to recover **expectation damages**. Calculating these damages begins with the contract price, but any **losses** that the **nonbreaching party avoided** or could have avoided (ie, mitigated) after the breach are **subtracted from the total** damage award. Reasonable **expenses incurred** in an **effort to mitigate** damages, whether or not successful, are **recoverable**.

Here, the teacher contracted to serve as the summer camp's head counselor at a salary of \$10,000 for 10 weeks. After the summer camp breached the contract by hiring someone else, the teacher found substitute employment at a salary of \$6,000 for the same 10-week period. As a result, the teacher can recover expectation damages of \$4,000 (\$10,000 – \$6,000). In addition, the teacher can recover the \$200 in travel expenses incurred in attempting to find substitute employment (**Choice A**). Therefore, the teacher is entitled to recover \$4,200 in total.

(Choices C & D) The summer camp and summer school jobs were for the same 10-week period—ie, the teacher could not have worked both jobs simultaneously. Consequently, \$10,000 (or \$10,200) would overcompensate the teacher for her loss rather than place her in the same position had the contract been performed.

Educational objective:

Any losses that the nonbreaching party avoided or could have avoided (ie, mitigated) post-breach are subtracted from the total damage award. However, reasonable expenses incurred in an effort to mitigate damages are recoverable.

Copyright © 2014 by the National Conference of Bar Examiners. All rights reserved.

Copyright © UWorld. All rights reserved.