



EMPLOYMENT TRIBUNALS

Claimant Miss F A Murray

Respondent G. Northover & Sons Limited t/a Northover Fuels

Heard at: Exeter

On: 20 February 2017

Before:
Employment Judge Goraj

Representation

Claimant: in person

The Respondent: did not attend

ORDER AND JUDGMENT AT A PRELIMINARY HEARING

The ORDER/ JUDGMENT of the tribunal is that:-

1. The respondent's response is struck out pursuant to Rule 37 (1) (d) of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 as the response has not been actively pursued by the respondent.
2. The claimant was unfairly dismissed by the respondent in breach of section 98 of the Employment Rights Act 1996 ("the Act"). The claimant is awarded, and the respondent is ordered to pay to the claimant, at total monetary award for unfair dismissal of £19,928 which

includes a Basic Award of £990 and a Compensatory Award of £18,938 net (which includes a 25% increase (of £3,788) pursuant to Section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992. The calculation of the award is set out in the Schedule below.

3. The claimant was wrongfully dismissed by the respondent. The claimant is not however awarded any damages for such breach of contract as such damages are extinguished by the compensatory award awarded at paragraph 2 above.
4. The respondent has made unlawful deductions from the claimant's pay (in respect of pay and holiday pay). The claimant is awarded and the respondent is ordered to pay to the claimant the sum of £436 gross in respect thereof.
5. The Employment Protection (Recoupment of Benefits) Regulations 1996 ("the Regulations") apply in this case. For the purposes of the Regulations the total monetary award in respect of the unfair dismissal award is £19,928 net, the prescribed element is £8,664, the dates of the prescribed period are 21 July 2016 to 20 February 2017 and the monetary award exceeds the prescribed element by £11,264.
6. The respondent has failed, in breach of section 12 of the Act, to provide the claimant with a final pay statement in respect of the period up to and including 20 July 2016. The final pay statement should have included the gross payments (less any statutory deductions required by law) referred to at paragraphs 4 above and paragraph 7 below.

SCHEDULE OF AWARD

UNFAIR DISMISSAL

Basic Award

1. 3 x £330 (gross weekly pay) (claimant's date of birth -16 May 1963) = £990.

Compensatory Award

2. 21 July 2016 – 20 February 2017 (30 weeks and 2 days) x £285 net = £8,664.
3. 20 February 2017 – 19 July 2017 (21 weeks and 3 days) x £285 net =£6,156.
4. Loss of statutory rights - £330.
5. £8,664 and £6,156 and £330 = £15,150.

6. Plus 25 % uplift (£3,788) = Total Compensatory Award = £18,938.

Unlawful deductions

7. 6 days' pay x £66 = £396 gross plus £40 gross for holiday pay = £436 gross.

Employment Judge Goraj

Date: 24 February 2017

JUDGMENT SENT TO THE PARTIES BY E-MAIL ONLY ON

.....3rd March 2017.....

.....
FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 1401564/2016

Name of Miss FA Murray v G. Northover & Sons
case(s): Limited t/a Northover
Fuels

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: **3 March 2017**

"the calculation day" is: **4 March 2017**

"the stipulated rate of interest" is: 8%

MR R ISRAEL
For the Employment Tribunal Office

INTEREST ON TRIBUNAL AWARDS

GUIDANCE NOTE

1. This guidance note should be read in conjunction with the booklet, 'The Judgment' which can be found on our website at www.justice.gov.uk/tribunals/employment/claims/booklets

If you do not have access to the internet, paper copies can be obtained by telephoning the tribunal office dealing with the claim.

2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding sums representing costs or expenses) if they remain wholly or partly unpaid more than 14 days after the date on which the Tribunal's judgment is recorded as having been sent to the parties, which is known as "the relevant decision day".

3. The date from which interest starts to accrue is the day immediately following the relevant decision day and is called "the calculation day". The dates of both the relevant decision day and the calculation day that apply in your case are recorded on the Notice attached to the judgment. If you have received a judgment and subsequently request reasons (see 'The Judgment' booklet) the date of the relevant judgment day will remain unchanged.

4. "Interest" means simple interest accruing from day to day on such part of the sum of money awarded by the tribunal for the time being remaining unpaid. Interest does not accrue on deductions such as Tax and/or National Insurance Contributions that are to be paid to the appropriate authorities. Neither does interest accrue on any sums which the Secretary of State has claimed in a recoupment notice (see 'The Judgment' booklet).

5. Where the sum awarded is varied upon a review of the judgment by the Employment Tribunal or upon appeal to the Employment Appeal Tribunal or a higher appellate court, then interest will accrue in the same way (from "the calculation day"), but on the award as varied by the higher court and not on the sum originally awarded by the Tribunal.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.

Claimant **Miss FA Murray**

Respondent **G. Northover & Sons Limited t/a Northover Fuels**

**ANNEX TO THE JUDGMENT
(MONETARY AWARDS)**

Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance and Income Support

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Reg 4, SI 2010 No 2429 Reg 5.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any Jobseeker's Allowance, income-related Employment Support Allowance or Income Support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.