



EMPLOYMENT TRIBUNALS

Claimant: Mr L. Callaghan
Respondent: The Upper Scale Ltd
Heard at: East London Hearing Centre (by CVP)
On: 6 January 2021
Before: Employment Judge Massarella

Representation

Claimant: In person
Respondent: Did not attend, and was not represented

JUDGMENT

This was a remote hearing, which was not objected to by the parties. The form of remote hearing was V (CVP). A face-to-face hearing was not held, because it was not practicable, and all issues could be determined in a remote hearing.

The judgment of the Tribunal is that: -

- 1. the Claimant was unfairly dismissed;**
- 2. the effective date of termination was 4 May 2020;**
- 3. the Claimant's net weekly pay at the time was £454.15;**
- 4. the Claimant is entitled to a basic award of £2,421, calculated by reference to the statutory maximum for a week's gross pay (3 x 1.5 x £538);**
- 5. the Claimant is entitled to a compensatory award £4791.50, which comprises:**
 - a. ten weeks' loss of earnings between 4 May 2020 and 13 July 2020 (£4541.50), and**
 - b. an award for loss of statutory rights (£250);**

6. the Tribunal awards an uplift of 10% to the compensatory award, in the amount of £479.15, to reflect the Respondent's unreasonable failure to comply with the ACAS Code, by failing to deal with the Claimant's grievance;
7. the award for loss of earnings is subject to recoupment: the parties' attention is directed to the provisions for payment of this award, as set out in the Annex to this judgment.

Employment Judge Massarella
Date: 7 January 2021

NOTES

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing, or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions: Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

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 and SI 2010 No 2429 Reg 5.

- (a) Monetary award: £7,691.65 (the total of the basic and compensatory awards, including the ACAS uplift).
- (b) Prescribed element: £4,541.50 (the amount of lost earnings suffered by the Claimant in the prescribed period).
- (c) Period to which (b) relates: 4 May to 13 July 2020 (the period of loss for which the Claimant is being compensated).
- (d) Excess of (a) over (b): £3,150.15.

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.

Only the prescribed element (item (b) above) 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 (item (d) above) 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.