



EMPLOYMENT TRIBUNALS

Claimant: Mr G O'Connor

Respondent: Express Linen Services Limited

Heard at: Manchester

On: 4 February 2020

Before: Employment Judge Warren
Mrs A L Booth
Ms B Hillon

REPRESENTATION:

Claimant: Mr L Bronze, Counsel

Respondent: Mr T Hussain

JUDGEMENT AND REASONS ON REMEDY

The unanimous judgement of the Tribunal is that :-

1. The claimant is entitled to a basic award of three thousand and seventy eight pounds and seventy pence (£3078.70).
2. The claimant is awarded six hundred pounds (£600.00) to compensate for loss of statutory protection.
3. The respondent is thus ordered to pay the claimant the sum of three thousand six hundred and seventy eight pounds and seventy pence (£3678.70)
4. The Recoupment Regulations do not apply as there was no compensatory award for post dismissal loss of earnings.

The Evidence

1. We heard evidence from the claimant in his own regard, and submissions from both parties. We had our own findings of fact from the liability judgement.
2. The issues in relation to the remedy for unfair dismissal were as follows:-
 - 4.1 This was found to be a capability dismissal. The reason was found to be fair, but the procedure followed was unfair. Should there be a deduction to any compensatory award to allow for the chance of the dismissal occurring in any event had a fair procedure been followed?
 - 4.2 The judge pointed out to the parties at the end of the evidence and submissions that there could be no compensatory award for lost earnings as following his dismissal the claimant was either in receipt of ten weeks paid notice, unfit for work and in receipt of ESA, or working in new employment for an equivalent salary to the date of the Hearing. The claimant had exhausted his right to contractual and statutory sick pay by the date of his dismissal.
 - 4.3 This resolved, the remaining issues were the calculation of the basic award and whether the claimant should receive a sum to reflect his loss of employment protection following his dismissal.
 - 4.4 The findings thus relate only to these issues.

The Facts

3. The Tribunal made the following relevant findings of fact from the evidence we heard and read.
4. The claimant was born on 17 November 1980. He was employed by the respondent for 10 complete years having commenced work on 11 February 2008. He was dismissed on 27 November 2018..
5. The claimant received 10 week's pay in lieu of notice. He was then awarded ESA as unfit for work, and subsequently acquired new employment within a day of signing off from ESA. His new employment is slightly better paid than his previous employment with this respondent. He accepted through his Counsel that he had no claimable losses for compensatory purposes.
6. It will be 2 years from the date of his new employment before he will regain his statutory protection against unfair dismissal.

Conclusions

7. The claimant is entitled to a basic award in the sum of 10 weeks gross pay of £307.87.
8. The claimant is entitled to an award of £600.00 to recognise his loss of statutory rights.

Employment Judge Warren

2 December 2020

REASONS SENT TO THE PARTIES ON
3 December 2020

FOR THE TRIBUNAL OFFICE

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.

[JE]



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: 2401890/19
Mr G O'Connor v Express Linen Services Limited

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 December 2020

"the calculation day" is: 4 December 2020

"the stipulated rate of interest" is: **8%**

MR S ARTINGSTALL
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.gov.uk/government/collections/employment-tribunal-forms

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.