



EMPLOYMENT TRIBUNALS

Claimant: Mr S Pheling

Respondents: Parrys Motor Parts Limited

HELD AT: Liverpool

ON: 10 May 2017

BEFORE: Employment Judge Horne

REPRESENTATION:

Claimant: Mr S Pinder, solicitor

Respondent: Mr J Lawler, manager

JUDGMENT

1. The claimant was unfairly dismissed.
2. Had the respondent acted fairly:
 - 2.1 the claimant would not have been dismissed for misconduct;
 - 2.2 the claimant would not have been dismissed for any reason during the 6 months following 19 October 2016; and
 - 2.3 there is a 25% chance that the claimant would have been fairly dismissed for ill-health absence on or about 19 April 2017;
3. The ACAS *Code of Practice 1 – Disciplinary and Grievance Procedures (2009)* did not apply to any matter to which the proceedings relate. The claimant's request for an adjustment to his award of compensation under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 is accordingly refused.
4. The respondent is ordered to pay the claimant a basic award of £4,000.00.

5. The respondent is ordered to pay the claimant a compensatory award of £8,833.55.
6. Paragraphs (3) to (7) of Regulation 4 of the Employment Protection (Recoupment etc) Regulations 1996 do not apply.
7. The tribunal makes a costs order for fees, that is, an order under rule 76(4) of the Employment Tribunal Rules of Procedure 2013 in respect of fees paid by the claimant to the tribunal. The respondent must accordingly pay the sum of £250.00 to the claimant

CASE MANAGEMENT ORDER

The claimant having:

- (a) paid the hearing fee of £950.00
- (b) made a retrospective fees remission application in respect of the hearing fee
- (c) indicated to the tribunal that he still awaits a decision on that application and
- (d) applied for a further costs order for fees in respect of the hearing fee

And the parties having indicated that they have no further submissions to make in relation to the costs order for fees, other than to indicate whether or not the claimant's fees remission application has been successful.

The tribunal orders:

1. The claimant's application for a costs order for fees is adjourned.
2. The claimant must notify the tribunal and the respondent in writing of the outcome of his fees remission application within 7 days of being informed of the decision.
3. Depending on the outcome, Employment Judge Horne will grant or refuse the costs order for fees without a further hearing.

10 May 2017

Employment Judge Horne
SENT TO THE PARTIES ON
17 May 2017

FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2400166/2017

Name of Mr S Pheling v Parrys Motor Parts Ltd
case(s):

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: 17 May 2017

"the calculation day" is: **18 May 2017**

"the stipulated rate of interest" is: 8%

MISS K MCDONAGH
For the Employment Tribunal Office