



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr A Pennington  
**Respondent:** Avensure Limited

**HELD AT:** Manchester **ON:** 25-29 September  
2017

**Before:** Employment Judge Horne

**Members:** Mrs C A Titherington  
Ms J K Williamson

## REPRESENTATION:

**Claimant:** Miss K Moss, counsel  
**Respondent:** Mr M West, consultant

## JUDGMENT

1. The claimant made disclosures to the respondent in January and February 2016, but they were not protected because the claimant did not believe that they were made in the public interest. The complaint of detriment under section 47B of the Employment Rights Act 1996 (“ERA”) is therefore not well-founded.
2. The respondent subjected the claimant to the following detriments on the ground that he made those disclosures:
  - 2.1 resurrecting the claimant’s final written warning;
  - 2.2 imposing a written warning on appeal;
  - 2.3 writing a letter of concern on 18 April 2016;
  - 2.4 removing the claimant’s access to tribunal lists; and
  - 2.5 attempting to bully the claimant into accepting a settlement agreement on 14 June 2016.

Accordingly, had those disclosures been protected, the complaint of detriment would have been well-founded.

3. The respondent did not subject the claimant to any other detriment on the ground of any disclosure that he made.

4. The claimant was unfairly dismissed.
5. The claimant was not automatically unfairly dismissed within the meaning of sections 103A or 104 of ERA.
6. It would not be just and equitable to reduce any award of compensation under section 123(6) of ERA on the ground of alleged contributory conduct.
7. Were the tribunal to make an award of compensation for unfair dismissal, it would be just and equitable to reduce such compensation on the ground that, had the respondent acted fairly:
  - 7.1 the claimant would inevitably have remained in employment until approximately 15 December 2017;
  - 7.2 there is an 80% chance that the claimant's employment would have continued indefinitely beyond 15 December 2017; and
  - 7.3 there is a corresponding 20% chance that the claimant would have been fairly dismissed on 15 December 2017.
8. The tribunal increases the claimant's compensation by 25% under section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992 to reflect unreasonable breach by the respondent of the ACAS Code of Practice on Disciplinary and Grievance Procedures.
9. By consent, the respondent is ordered to pay the claimant the sum of £2,000.00 as unlawfully-deducted wages and/or damages for breach of contract.

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Employment Judge Horne

3 October 2017

JUDGMENT SENT TO THE PARTIES ON

9 October 2017

FOR THE TRIBUNAL OFFICE

Note – reasons for the judgment were given orally at the hearing. Written reasons will not be provided unless a party makes a request in writing within 14 days of the date on which the judgment was sent to the parties.



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: 2403160/2016

Name of case: Mr A Pennington v Avensure Ltd

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: 9 October 2017

"the calculation day" is: 10 October 2017

"the stipulated rate of interest" is: 8%

MR S ARTINGSTALL  
For the Employment Tribunal Office