



EMPLOYMENT TRIBUNALS

Claimant: Miss J Morris

Respondent: 55th Club Preston Limited

JUDGMENT ON RECONSIDERATION Employment Tribunals Rules of Procedure 2013 – Rule 70

It is the judgment of the Tribunal upon reconsideration that:

Paras. 1 and 2 of the judgment sent to the parties are revoked, and the following is put in their stead:

The time for presenting a response having expired and no valid response having been presented, it is the judgment of the tribunal that:

1. The claimant's claim for a redundancy payment is well founded and succeeds. The claimant is entitled to a redundancy payment. She had 23 years of continuous service, and was 57 at the date of her dismissal. Her weekly wage was £135.00

Redundancy Payment : 28 x £135.00

£3,780.00

Whilst the claimant has also claimed unfair dismissal, the Tribunal dismisses the same on withdrawal by the claimant..

2. The claimant's complaint of failure to pay to the claimant an amount due to the claimant under regulation 14 (2) or regulation 16 (1) of the Working Time Regulations 1998 is well-founded and the respondent shall pay to the claimant the sum of **540.00** in respect of 72 hours untaken, at £7.50 per hour, but accrued holiday (holiday pay). This is a gross sum, from which the appropriate deductions for tax and national insurance should be made.

4. The claimant's complaint of breach of contract is well – founded and she entitled to twelve week's pay in respect of notice, the claimant having confirmed that she received no earnings during the notice period. Her notice pay entitlement is therefore 12 x £135 , £1,620.00. She did, however, receive benefits in the total sum of £620.04 . The respondent is ordered to pay her the sum of **£999.96**, as damages for breach of contract. This is a gross sum, from which the appropriate deductions for tax and national insurance should be made.

5. The hearing on 25 April 2018 is cancelled.

REASONS

1. By a judgment sent to the parties on 9 February 2018, the Tribunal entered judgment for the claimant, the respondent having served no response, on claims that she had presented for unfair dismissal, a redundancy payment, breach of contract, and unpaid holiday pay.

2. The claimant's representatives had supplied the Tribunal with a Schedule of Loss, setting out what sums were being claimed. As that document clearly proposed that the Tribunal make awards for unfair dismissal, referring as it did to a "basic" award and a "compensatory" award, under which additional sums were sought, the Tribunal proceeded on the basis that the claimant sought awards for unfair dismissal, and, in addition to the awards for notice pay and unpaid holiday pay, made such awards, dismissing the claim for a redundancy payment.

3. By letter of 14 February 2018 the claimant's representatives, however, asked the Tribunal to reconsider its judgment in relation to the unfair dismissal claim, seeking instead a redundancy payment, it being the claimant's case that she was actually dismissed for redundancy, and she wishes to seek a redundancy payment, which she can thereafter pursue through the Insolvency Service.

4. Under rule 70 of the 2013 rules of procedure, the only ground for reconsideration is that it would be in the interests of justice to grant a reconsideration. In this instance, it clearly would be. As observed, the Tribunal has already found that the claimant was in fact redundant, and declined to award her by way of compensatory award anything over and above the notice pay for the notice period to which she was in any event entitled. To the extent that the claimant no longer seeks an award for unfair dismissal, that claim will be dismissed upon withdrawal by her.

5. The Tribunal would, however, add this. There is some suggestion in the claimant's representative's letter that the Tribunal ought to have sought further information before dismissing the claim for a redundancy payment. The Tribunal would politely point out that when a represented party, having been asked for details of the claims for the purposes of a Rule 21 judgment, provides a Schedule of Loss in which details of the awards sought are set out consistent only with an award for unfair dismissal (even including recoupment details) the Tribunal can hardly be criticised for proceeding on that basis. Given that the basic award and a redundancy payment are mutually exclusive, and in the absence of anything in the Schedule, or the covering e-mail of 29 January 2018, to suggest that the claimant in fact wanted the award of a redundancy payment, and not an award for unfair dismissal, the Tribunal rejects the implicit contention that the Tribunal was at fault for making the awards that it did. If parties, or, more particularly, their representatives, do not make clear what awards they seek in Rule 21 judgments, the Tribunal will have to hold hearings to ensure that no errors are made.

6. Be that as it may, on this occasion the Tribunal is pleased to be able to provide the claimant with what she now requires.

P C Holmes EMPLOYMENT JUDGE

Dated: 15 February 2018

.....
JUDGMENT ON RECONSIDERATION

SENT TO THE PARTIES ON

19 February 2018

.....
AND ENTERED IN THE REGISTER

.....
FOR SECRETARY OF THE TRIBUNALS



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2424272/2017

Name of case(s): Miss J Morris v 55th Club Preston 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: 9 February 2018

"the calculation day" is: 10 February 2018

"the stipulated rate of interest" is: 8%

MISS L HUNTER
For the Employment Tribunal Office