



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**

Mr Ben Kirkby

AND

**Respondents**

The Sunday Independent Limited (1)

Mr David Duncan Williams (2)

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

**HELD AT** Exeter

**ON**

20 March 2019

**EMPLOYMENT JUDGE** N J Roper

**MEMBERS**

Mr I Ley

Mr T Slater

### Representation

**For the Claimant:**

**In Person**

**For the Respondents:**

**Did Not Attend**

### JUDGMENT ON REMEDY

The Unanimous Judgment of the Tribunal is as follows:

1. The correct name of the First Respondent is the Sunday Independent Limited and the record is amended accordingly; and
2. This judgment should be read in conjunction with the judgment following a preliminary hearing dated 18 September 2018, and a judgment determining the claims of the lead claimant Mr James Coles against the same respondents dated 20 March 2019. Both judgments are under Tribunal reference 1400481/2018. The reasons explained in those judgments, and with the exception of any claims relating to pension payments, any liability of the First Respondent under these claims has passed to the Second Respondent.
3. The claimant is entitled to a statutory redundancy payment of £634.60 (2 weeks at £317.30 gross per week); and
4. The claimant was unfairly dismissed by the First Respondent by reason of a TUPE transfer. The Second Respondent is ordered to pay the claimant

**compensation for unfair dismissal in the sum of £300.00. No award is made for the Basic Award, because the claimant is entitled to a statutory redundancy payment. The Compensatory Award is calculated as follows: loss of statutory rights £300.00.**

**5. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 ("the Recoupment Regulations") do not apply in this case.**

**6. The First Respondent and the Second Respondent failed to consult on a prospective TUPE transfer, and they are ordered to pay the Claimant thirteen weeks' pay in the sum of £4,124.90 (13 x £317.30); and**

**7. The claimant succeeds in his claim for breach of contract in respect of his contractual notice entitlement and the Second Respondent is ordered to pay the claimant one month's pay in the net sum of £1,208.28; and**

**8. The claimant succeeds in his claim for unlawful deduction from wages and the First Respondent is ordered to pay the Claimant four days' net pay from 1 to 4 January 2018 in the sum of £252.84.**

**10. Where appropriate we consider the above awards to be just and equitable.**

\_\_\_\_\_  
Employment Judge N J Roper  
Dated 20 March 2019

Judgment sent to Parties on

28 March 2019

For the Tribunal Office



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **1400498/2018**

Name of case(s): **Mr B Kirkby** v **1. The Sunday Independent Ltd**  
**2. Mr David Duncan Williams**

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: **28 March 2019**

"the calculation day" is: **29 March 2019**

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

MISS Z KENT  
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/publications/employment-tribunal-hearings-judgment-guide-t426](http://www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426)

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.