EMPLOYMENT TRIBUNALS

Claimant: Mr S Nield

Respondent: The Royal Mail Group Limited

Heard at: Manchester **On:** 31 May 2019

Before: Employment Judge Feeney

REPRESENTATION:

Claimant: In person
Respondent: Miss L Roberts, Legal Executive

JUDGMENT ON REMEDY

The judgment of the Tribunal is that:

1. The respondent re-instate the claimant as set out in the re-instatement order below.

2. Any arears of pay to the claimant are subject to a 20% deduction for contributory conduct

REASONS

1. The claimant, by a judgment given on 20 November 2018, succeeded in his claim for unfair dismissal, preponderantly on the basis that the appeal manager in the case had quite properly obtained additional information in the course of his enquiries that substantially reduced or eliminated the culpability of the claimant.

2. In view of that I found that it had been outwith **BHS v Burchell EAT 1980** to uphold the dismissal as there were no longer reasonable grounds to conclude that the claimant was guilty of the misconduct alleged.

3. Some facts need recounting as there are no written reasons of the judgment. The case concerned the 'dumping' of commercial door to door leaflets. The delivery

of these is extremely important to the respondent as it contributes to the viability of the business in a competitive environment.

4. The claimant was asked by a manager Ryan Clayton whether he knew anything about door to door (D2D) being 'dumped' in a public rubbish bin. He said he knew nothing about it. He then said at a later fact finding interview he had done it because his colleague, who had been working with him that day had by then confessed to him that he had done it. The claimant was trying to protect his colleague who was in a weaker position than himself both financially and in terms of his health. However, he had retracted this when he realised that it was a serious matter as he had initially been unofficially advised he would just receive a 'slap on the wrists'.

5. The respondent believed the claimant had only retracted the 'confession' when his colleague was pinpointed as actually disposing of the leaflets. His colleague was black and therefore the original eyewitness could distinguish between them. At the time the dismissing officer felt the claimant only changed his story when he was aware of the witness distinguishing between him and his colleague. The claimant had also been at the same rubbish bin to dispose of cardboard but separately from his colleague and the respondent did not believe he could not have seen the leaflets when he did this and would also have been aware that leaflets had gone missing from the van.

6. The matter was listed for remedy today. The claimant seeks reinstatment or re-engagement. Primarily the claimant wants reinstatement at his old office Manchester South, based in Stockport. In respect of compensation the parties agreed a calculation save that the respondent argues there should be a reduction for contributory conduct.

Witnesses

7. The claimant gave evidence for himself and for the respondent Mr Darren Banks, Operations Manager (Manchester) gave evidence. There was an agreed bundle.

Findings of Fact

8. The respondent's evidence was that reinstatement would not be appropriate. The claimant's post had been filled on 6 August following the claimant's dismissal in March 2018 and there were currently only two part-time jobs in Stockport. Mr Banks stated that the respondent had to fill the vacancy created by the claimant's dismissal as it was necessary to maintain standards. He agreed however that the respondent as a whole has many vacancies within Greater Manchester which although they may be recorded at the planning stage as full-time equivalent vacancies, they are usually advertised as part-time, as with advances in technology and the reduction in the volume of post due to competition and the use of alternatives there was less need for full time workers.

9. It is important to note that the claimant in his claim form at box 9.1 ticked compensation and reinstatement as the remedy he sought. The claimant issued that claim on 19 July 2018. The claimant had actually approached ACAS for conciliation

on 25 May 2018 but I had no evidence regarding whether at that juncture he informed ACAS he wished to have reinstatement and/or whether this was conveyed to the respondent at that earlier point. However, the claimant had clearly stated it in his claim form.

10. The claimant's claim form, although it was submitted on 19 July 2018, was not sent to the respondent until 26 July 2018. Acknowledgement was received from the respondent's representative on 3 August 2018 at 20:18. The claim form had initially been sent to the Royal Mail South Delivery Office and then must have been passed to the legal firm which usually represents the respondent. The timing is important due to the legal provisions relating to reinstatement.

11. Mr Banks also advised that if a full-time job came up it would generally be offered to currently serving part-time workers and that there would be union opposition if a full-time job was given to somebody outside of that procedure. However, he agreed that if a Tribunal ordered that an individual be reinstated into a full-time job he did not think the unions would object.

12. Mr Banks also averred that the respondent no longer had trust and confidence in the claimant, firstly because during the investigation process the claimant had lied, and because management had held a belief that the claimant was aware that the door-to-door leaflets had been thrown in a bin even though he himself was not responsible for that. The respondent pressed the claimant in cross examination to agree that by lying he had been dishonest. He resisted this description and replied he had made a mistake and that he was 'guilty of being too nice a guy' i.e. by trying to help his colleague. If it was 'dishonest' it was 'good' dishonesty. In addition, the respondent had put inaccurate allegations to him as the evidence showed he had not disposed of the leaflets and that was known.

13. The respondent further questioned the claimant about his claims re the lackadaisical attitude he alleged existed at Manchester south re D2Ds. The claimant had given evidence at the original hearing and since that there was a culture at his office base of door-to-doors not being delivered and that he had even seen management dispose of these commercial leaflets in bins, and yet he had done nothing to report it. However, he said today he had never actually seen this just been told this. The claimant said that the manager at Stockport had not run the office well, that he (the claimant) had in particular experienced an incident where he had come back from holiday to find two boxes of door-to-door undelivered left by his workstation. He had complained to the office manager on that occasion and on numerous other occasions but nothing was ever done. There seemed little point in complaining to a higher authority in view of the fact that the manager took no action, and everybody at Stockport GPO knew that this took place.

14. The respondent also pointed out that the claimant had agreed he had not followed policy in respect of how he delivered his door-to-doors as he would take whole boxes out rather than put the leaflets, as required, in separate sorting baskets. The claimant stated that there was simply not enough time to do that; that he was a hard worker but still could not manage to do it and taking the boxes out enabled him to get on with the job.

15. Mr Banks also gave evidence that the Stockport office had been the third worst office for door-to-doors with a 29% rating for quality of service, but with monitoring this had now increased to 66.2% in 2018-2019. The claimant commented that he welcomed that monitoring had led to such an improvement as it could only assist staff.

16. The respondent also drew attention to the claimant's "anti-management" (for want of a better description) attitude which he had displayed during the Tribunal process and indeed today at the Tribunal. Mr Banks referred to instances in the previous hearing which showed such an attitude. These were as follows:

(1) Accusing of Sarah Warne, Line Manager at Manchester South East, of leaking information regarding the conduct case and encouraging him to accept responsibility for the incident;

(2) Accusing Stuart Buckley, the manager who ultimately dismissed him, of dishonesty;

(3) Accusing Stuart Buckley of disclosing confidential information;

(4) Accusing Stuart Buckley of rushing his decision and withholding crucial pieces of evidence;

(5) Accusing management at Manchester South Delivery Office of ignoring complaints of victimisation and of his work partner being treated unfairly over a number of years;

(6) That there was a culture of door-to-door items not being delivered from Manchester South Delivery Office;

(7) Stating that he had seen door-to-door items being placed in bins by managers at Manchester South Delivery Office;

(8) Accusing Royal Mail of trying to get rid of full-time staff for financial gain; and

(9) Today, that he had alleged that Mr Buckley had dismissed him under pressure or instruction from people above, and Mr Banks said that could only have been himself as he was the person responsible for that level of management, and the claimant made these allegations without evidence. It exemplified his attitude towards the respondent.

17. The claimant's response to this was that he was under a great deal of pressure at both hearings and got worked up. He felt that the respondent was unfair in not disclosing his colleague's statement from his disciplinary to him; that it was unfair he had been told he had been seen disposing of leaflets when the witness had not seen this and that the respondent had lost a supporting statement at the disciplinary stage to the effect that the claimant's D2Ds were still in his van when it was returned which he felt would be crucial in proving he had not disposed of any leaflets. As an unrepresented claimant he had no one to assist him in making these points at the tribunal.

18. He did not bear a grudge against his managers and stated that the respondent would not find any manager who he had worked with who would complain about him. I accept his evidence,it was unchallenged. As Mr Banks had confirmed the management at the time he was dismissed from Manchester South no longer worked there. SB worked in Wythenshawe, a different office.

19. The claimant stated he was actually an exemplary employee; he had a clean disciplinary record after 21 years' service with not even a suspension; he was always ready to do overtime and came into work on days he had booked as holiday in order to assist the respondent when they were short-staffed. I accepted the claimant's evidence regarding this, it was unchallenged.

20. The claimant was also very emotionally attached to the Manchester South office, although it was a considerable way away from where he lived he was close friends with many of his colleagues and their loss was significant to him.

21. Mr Banks also said that the respondent believed that the claimant was involved in the dumping of the leaflets insofar as management still believed he was aware of the leaflets from the photographs taken, and it was not accepted that he would not have seen those leaflets when he had disposed of the cardboard in the same rubbish bin even though he himself did not actually dispose of them. By failing to report known dumping, whether from his work partner or as he alleged from management (although today he has said he has never actually seen managers do this he has just heard that it happens), he had failed to maintain the integrity standards required by the respondent and it would be an unacceptable risk to re-employ him in any capacity. No evidence was lead from any of the individuals involved in the disciplinary process. It was established

The Law

Reinstatement

22. Section 114 of the Employment Rights Act 1996 says as follows:

> "(1) An order for reinstatement is an order that the employer shall treat the complainant in all respects as if he had not been dismissed.
>
> (2) On making an order for reinstatement the Tribunal shall specify:
>
> (a) any amount payable by the employer in respect of any benefit which the complainant might reasonably be expected to have had but for the dismissal (including arrears of pay) for the period between the date of termination of employment and the date of reinstatement;
>
> (b) any rights and privileges (including seniority and pension rights) which must be restored to the employee; and
>
> (c) the date by which the order must be complied with.
>
> (3) If the complainant would have benefitted from an improvement in his terms and conditions of employment had he not been dismissed an

order for reinstatement shall require him to be treated as if he had benefitted from that improvement from the date on which he would have done so but for being dismissed…"

23. In relation to reinstatement or re-engagement section 116 of the 1996 Act requires the Tribunal to consider:

(1) Whether the employee wants the order to be made, and in the case of re-engagement what sort of order he or she wants.

(2) Whether it is practicable for the employer to comply. In the case of re-engagement the test of practicability is extended to successors of the employer and to associated companies.

(3) Whether it would be just to make either type of order where the employee's conduct caused or contributed to some extent to his or her dismissal, and if so in the case of re-engagement on what terms?

24. Further, subsection 116(5) states:

"Where in any case an employer has engaged a permanent replacement for a dismissed employee the Tribunal should not take that fact into account in determining for the purposes of subsection (1)(b) or (3)(b) whether it is practicable to comply with an order for reinstatement or re-engagement."

25. Section 116(6) states:

"Subsection (5) does not apply where the employer shows:

(a) that it was not practicable for him to arrange for the dismissed employee's work to be done without engaging a permanent replacement; or

(b) that:

(i) he engaged a replacement after the lapse of a reasonable period without having heard from the dismissed employee that he wished to be reinstated or re-engaged; and

(ii) when the employer engaged the replacement it was no longer reasonable for him to arrange for the dismissed employee's work to be done except by a permanent replacement."

26. However, Tribunals have a general discretion to take into account a wide range of other factors, including the consequences for industrial relations if the order is complied with, whether the employee has refused a previous offer of re-engagement, whether the post offered has been filled. The fact that no compensation would have been awarded for unfair dismissal under the principles of **Polkey v A E Dayton Services Limited 1988 HL** should not be taken into account.

27. In relation to practicability, the Tribunal is to take a broad common sense view. For example, the effect on the business should be considered, reinstatement

should not lead to redundancies or overstaffing unless a post has been deleted deliberately to avoid the possibility of the individual being reinstated. Before replacing a dismissed employee, an employer should consider whether the work can be done without engaging a permanent replacement or whether a reasonable period had gone by without word from the dismissed employee as to whether he wanted re-employment or not and there was no alternative to hiring a permanent replacement. Tribunals should also consider the personal relationship between the employee and his and her colleagues as re-employment is unlikely to be appropriate if relations have become acrimonious, including with management. Not all instances of workplace drive present a bar to re-employment.

28. Breakdown of trust and confidence may be sufficient to render re-employment impracticable. A lack of trust on the employee's part may also make re-employment impracticable.

29. In **Nothman v London Borough of Barnet (No. 2) [1980]** Court of Appeal, the Court of Appeal held that an employee's allegations of a longstanding conspiracy by colleagues to oust her from her job made it impracticable to order reinstatement. In another case, reinstatement was not appropriate when the claimant had accused the manager of having committed bigamy. Where the employer genuinely believes the employee has committed some misconduct reinstatement can be inappropriate.

30. Conduct during the litigation can also be taken into account if working relationships are damaged by a claimant's conduct. However, this would not apply where the colleagues had now left and were unaware of the claimant's "history". At the same time, case law has established that Tribunals should be wary of holding against employees' allegations made in the course of litigation and wary of assessing employees' attitudes solely from his or her performance during the litigation. In addition, with a large employer a legacy of business arising from litigation is unlikely to persist although personal and specific allegations may still have a disruptive effect where there is a risk to the public or company image may be harmed.

Re-engagement

31. In respect of an order for re-engagement, section 115 of the 1996 Act says as follows:

> "(1) An or re-engagement is an order on such terms as the Tribunal may decide that the complainant may be engaged by the employer or by a successor of the employer or by an associated employer in employment comparable to that from which he was dismissed or other suitable employment.
>
> (2) On making an order for re-engagement the Tribunal shall specify the terms on which the re-engagement is to take place, including:
>
> (a) the identity of the employer;
>
> (b) the nature of the employment;
>
> (c) remuneration for the employment;

(d) any amount payable by the employer in respect of any benefits which the complainant might reasonably be expected to have had but for the dismissal (including arrears of pay) for the period between the date of termination of employment and the date of re-engagement;

(e) any rights and privileges (including seniority and pension rights) which must be restored to the employee; and

(f) the date by which the order must be complied with.

32. In both cases in relation to the compensatory monetary award any amounts paid to the claimant since the dismissal should be subtracted.

Compensation

33. In respect of compensation generally, section 188(1) of the 1996 Act says:

"Where a Tribunal makes an award of compensation for unfair dismissal under section 112(4) and 117(3)(a) the award shall consist of –

(a) A basic award calculated in accordance with sections 119-122 and 126; and

(b) A compensatory award (calculated in accordance with sections 123, 124, 124A and 126).

34. A basic award has a mathematical mode of calculation, it is agreed in this case.

35. A compensatory award, according to section 123(1), is:

"The amount of the compensatory award shall be such amount as the Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal insofar as that loss is attributable to action taken by the employer."

36. There is now a statutory cap to compensatory awards which is £82,444 or a year's gross salary whichever is the lower. Accordingly, in this case the figures were agreed save for whether there should be a reduction for contributory conduct.

Contributory Conduct

37. Reinstatement and re-engagement may not be appropriate where there was a contribution by the claimant to dismissal, although there was no absolute bar to a re-employment order even where there was a large degree of contributory conduct provided that there were grounds for doing so.

38. In **United Distillers Limited v Harrow EAT [1996]** the EAT took the view that it would not practicable to reinstate an employee where the conduct related to an established and admitted act of dishonesty. Employees' conduct can also be taken

into account by reducing or eliminating an award of back pay for the period between the dismissal and the re-engagement.

39. Section 123(6) of the 1996 Act states:

> "Where the Tribunal finds that the dismissal was to any extent caused or contributed to by any act of the complainant, it shall reduce the amount of the compensatory award by such proportion as it considers just and equitable having regard to that finding."

40. The basic award can be reduced in the same way under section 122(2) although the statutory language is different and the basic award can be reduced on the grounds of any kind of conduct which would be relevant, whereas under section 123(6) the conduct in question must be shown to have caused or contributed to the employee's dismissal. The leading case is **Nelson v BBC (No. 2) [1980]** Court of Appeal, where the Court of Appeal said the three factors must be satisfied if a Tribunal is to find contributory conduct:

(1) The relevant action must be culpable or blameworthy;

(2) It must have actually caused or contributed to the decision;

(3) It must be just and equitable to reduce the award by the proportion specified.

41. The conduct could not simply have been blameworthy but could be perverse or foolish, bloody-minded of unreasonable in all the circumstances.

Respondent's Submissions

42. In relation to contributory conduct the respondent submitted that the claimant had contributed to his dismissal by lying to the factfinding investigator saying that he was responsible for the disposing of the leaflets; and further that he was aware he was not following the correct procedure himself in delivering door-to-door leaflets. The claimant's dishonesty in the factfinding interview contributed to the finding of dismissal as the dismissing manager formed a belief that the claimant only changed his mind when he was aware that the evidence did not implicate him in disposing of the leaflets, only potentially being complicit with it, and therefore there should be a finding of contributory conduct of 50%-75% in respect of both the basic and the compensatory awards.

43. In relation to reinstatement/re-engagement and practicability the claimant's role had been filled in August 2018. The respondent could not keep the post vacant any longer due to their public responsibilities and the high standards they needed to maintain, both for their public role and for commercial contracts.

44. Regarding vacancies, the vacancies would generally have been advertised as part-time; essentially, there were no full-time jobs and mail volume had considerably reduced and new technology had produced the need for full-time jobs.

45. In relation to trust and confidence, if the respondent's concerns were genuine the Tribunal should accept them. The respondent relied on a genuine belief in the

gross misconduct: that the claimant was at least aware that the leaflets were being disposed of by his partner, and that this was further supported by the fact that the claimant alleged he knew that management was disposing of leaflets in the same way and never reported it. Further, the respondent had no trust going forward in the claimant because of this. In addition, the claimant had made a number of allegations and displayed a high degree of animosity towards his managers and clearly had longstanding negative views.

Claimant's Submissions

46. The claimant said that he was not guilty of the matter he had been accused of and it was pure speculation now for the respondent to say that he must have been complicit in it. There was no evidence to that effect. The claimant stated that he had no difficulty with anyone in the Stockport office, including any of the managers. He stated that he had initially taken responsibility in order to assist his colleague who was ill and under stress and in a financially weaker position, but when he realised the seriousness of the situation had withdrawn that concession. He was not vindictive towards the Royal Mail. He had not gone to the papers nor sought to have the Judgment published on the internet. He did not want to embarrass the Royal Mail.

47. Further, there were vacancies.

48. In relation to trust, the claimant said all his managers had always trusted him and knew he was a hard worker and did the job and no-one had ever experienced any disciplinary problems with him whatsoever in 21 years.

49. In relation to contributory conduct, although the claimant had not told the truth on one occasion,the respondent's conduct had actually led to him being dismissed in that they had not undertaken proper enquiries of the complainant which would have revealed that he was not at the bin at the same time as his colleague and that they had lost the statement setting out that the claimant's leaflets were in his van on returning the van, which again exonerated the claimant from having disposed of his own leaflets.

50. Further, the respondent had refused to give the claimant his colleague's statement, which again had exonerated him, until it was ordered by the Tribunal.

Conclusions

51. Having considered all the evidence I have decided that re-engagement is an appropriate remedy in this case. My reasons are, taking into account the respondent's submissions:

Practicability

(1) In relation to the respondent filling the vacancy, the tribunal is required to specifically consider the bone fides of filling the vacancy and to ignore it unless satisfied that either the respondent had to fill the vacancy with a permanent replacement or that they waited a reasonable time before filling the vacancy in a situation where they did not know the claimant wanted to be reemployed (section 116(6) 1996 Act).

(2) I am not satisfied that the respondent meets the criteria in these two subsections of section 116(6) of the 1996. The respondent could have filled the job with a temporary worker although we did not explore this option in the Tribunal it is well known that the respondent is an employer of temporary staff on a regular basis and of course an employee requires two years' service before they acquire unfair dismissal rights. I am not convinced that the respondent's standards would have been in any way compromised by filling the vacancy with a temporary worker or temporarily with a permeant part-time worker who wanted to work full time. Further the respondent did know before 6 August that the claimant was seeking reinstatement as his claim form indicated this and was sent to the respondent on 26th July. I accept they would have received it just before the vacancy was filled but there would have been no prejudice to them (no legal obligation broken or financial penalty incurred) in changing the offer to temporary at that juncture.

(3) The respondent agreed that there were full-time jobs available although it was their practice to advertise part-time generally. The fact that jobs were available is shown by Mr Banks' evidence that there was a procedure whereby existing part-timers would be allowed to apply for full-time jobs first. Accordingly there appeared no bar to the claimant obtaining a full-time role.

Trust and Confidence

(4) The respondent stated that they still believe the claimant was aware of his partner disposing of door-to-door leaflets. However, I find this is speculation. Bearing in mind that the claimant originally told Ryan Clayton he knew nothing about it and then only changed his mind after a phone call with his colleague in order to protect his colleague, on the balance of probabilities I found the claimant was being truthful in this regard: the timing fitted his assertions. Once the respondent had all the information, (as the appeal officer, for example, did speak to Ryan Clayton who confirmed that the claimant had originally said he knew nothing about it,) the claimant should have been believed, particularly given his clean record over 21 years' service. If the respondent's belief is based on the fact that the claimant must have seen the leaflets when he was putting the cardboard in the bin only, as this is the only matter left, that is pure speculation. It is unreasonable of the respondent, therefore, to still believe the claimant had any complicity regarding this incident. Neither did I hear any actual evidence to support this contention from a first line manager.

(5) Further, the fact that the claimant had benign motives for the one incident where he lied at the factfinding stage does mitigate the impact of it and because of that does not reasonably lead to an employer losing trust and confidence in an employee such as to undermine the working relationship.

(6) Regarding the claimant's criticism of managers involved in his dismissal:

(i) It was understandable that the claimant was emotional when he lost a job which not only gave security but which he enjoyed and which was emotionally important to him given the evidence I have heard today.

(ii) There were deficiencies in the process which contributed to the claimant's feeling of disaffection during the Tribunal hearing. He was unrepresented and therefore it is more likely matters will become personal in an adversarial situation.

(iii) None of the managers involved in the disciplinary process actually managed the claimant or would necessarily do so in the future.

(iv) None of the managers involved with the claimant at the time in Manchester South are still working at Manchester South office.

(v) The fact that the claimant had 21 years with a clean disciplinary record with no examples of an anti-management attitude reported.

(7) Accordingly, I do not accept the reasons given by the respondent for objecting to the claimant's reinstatement or re-engagement.

Final conclusion

(8) Firstly, I am bound by section 116(6) to ignore the fact that the claimant's job has been filled with a permanent replacement. So whilst there are no full-time jobs currently available at Manchester South this would not be a bar to the claimant's reinstatement there. Further I am required to take the claimant's views as to the order to be made into account and the claimant clearly wants reinstatement in Manchester South. There is no bar then to a reemployment order being made for Manchester South.

(9) I have considered whether there is a case for a reengagement order rather than reinstatement for example because of the contributory conduct or because of the allegations made re SB .(although I did give him the opportunity to answer them which he did and established no dishonesty on his part had arisen) but SB does not work in Manchester South and the contributory conduct is not significant (see below) accordingly these are not reasons for preferring reengagement. Further given that none of the claimant's then managers are still in place and the fact that the disciplinary process managers would not be involved in the claimant's management again points to reinstatement being the correct outcome..

<u>Contributory Conduct</u>

(10) The claimant did set a hare running at the factfinding stage by not telling the truth, and although he did it for benign motives it was reasonable at the time for the respondent to doubt this. If the claimant had not advised Sarah Warne of this at the factfinding the respondent would not have

convened a disciplinary hearing and it was wholly reasonable to convene a disciplinary hearing in the circumstances as door-to-doors are extremely important work to the respondent as a source of income in an increasing competitive environment.

(11) Accordingly, the claimant's lying did contribute to his dismissal by putting him in the disciplinary process and raising doubts about his credibility. I therefore make a deduction of 20% to the claimant's compensation.

(12) At the same time, given the outcome of the appeal and the evidence available by then which made it unreasonable to continue to believe the claimant was guilty of the misconduct, I do not find that the element of contribution is a bar to re-engagement.

Re-instatement Order

(13) The claimant is to be re-instated:

(i) in the same full-time role he occupied before his dismissal in Manchester South;

(ii) on the same terms as increased since his dismissal.

(14) The respondent is to pay the claimant the claimant his arrears of pay from the date of his dismissal 16 March 2018 to the date of re-instatement less 20% contributory conduct.

(15) The claimant's pension rights to be restored and any other contractual benefits depending on service also to be restored to the claimant as if he had not been dismissed.

(16) Re-instatement to take place within three months of the promulgation of this Judgment unless it can be arranged earlier.

Employment Judge Feeney
Date: 14 June 2019
RESERVED JUDGMENT AND RESAONS
SENT TO THE PARTIES ON

27 June 2019

FOR THE TRIBUNAL OFFICE

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2413507/2018**

Name of case(s): **Mr S Nield** v **Royal Mail Group 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: **27 June 2019**

"the calculation day" is: **28 June 2019**

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

MR S ROOKE
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**

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.