



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Mr K Molek

Respondent
Kaliber Marketing (Holdings) Ltd

JUDGEMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Manchester on 21 August and 5 October 2018.

EMPLOYMENT JUDGE Warren

Representation

Claimant – in person

Respondent – Miss N Parker, Solicitor

JUDGMENT ON RECONSIDERATION

The claimant was unfairly dismissed by the respondent.

1. There was a fifty per cent chance of the claimant being dismissed fairly had a fair procedure been followed.
2. The claimant contributed by his conduct to his dismissal to the extent of twenty five per cent.
3. The respondent failed to comply with any statutory procedure, and the appropriate awards will be uplifted by twenty five percent.

4. The respondent is ordered to pay to the claimant the sum of nine thousand five hundred and sixteen pounds and fifty six pence (£9516.56) calculated in accordance with the schedule set out below

REASONS

The respondent applied for written reasons and reconsideration under Rule 70 Tribunal Rules of Procedure 2013. The respondent made the point that there was no claim for notice pay (breach of contract) on the ET1 and that in my verbal reasons I made it clear that the eight week period which followed the dismissal (and would have otherwise been the notice period) would be dealt with as compensation for loss to date. Further that I had granted a 25% uplift which could only be applied to a compensatory award. The claimant was asked for his comments on the application and did not demur. He is now living in Poland with his family.

I have therefore reconsidered my judgement.

I agree with the respondent's points completely. I have removed reference to breach of contract in this judgement, and recalculated the notice pay originally awarded as a further 8 weeks net loss of pay under the compensatory award. The claimant does not then benefit from an uplift, and suffers a 50% reduction for contributory conduct.

Schedule of Remedy Calculation

1. The claimant was born on 8 April 1967.
2. He started employment with the respondent on 21 July 2009.
3. His effective date of termination was 5 January 2018.
4. He had eight years continuous service.
5. His age at the effective date of termination was 50.
6. The remedy hearing date was 5 October 2018.
7. The claimant failed to find work in the UK and chose to return to Poland. He has not sought work since 24 August 2018, which is therefore the cut off date for loss of earnings.
8. He was entitled to 8 weeks statutory notice.
9. His net weekly pay was £340.00.



10. His gross weekly pay was £403.00.

Basic award

8 weeks x 1.5 x 403 = £4836
Less contributory fault of 25% = **£3627.00**

Compensatory award – immediate loss

Loss of net earnings – 32 weeks x 340 = £10880
Plus loss of statutory rights – 2 weeks pay = £806
Pension loss £2.91 x 32 weeks = £93.12
There is no future loss.
Total compensatory award before adjustments = **£11779.12**

Adjustments to the compensatory award

Less 50% (Polkey reduction) £ 5889.56
Plus 25% failure to follow fair procedure = £2944.78
Less 25% contributory fault = £2944.78
Total adjustment to the compensatory award -£5889.56

Total compensatory award after adjustments = **£5889.56**

Summary totals

Basic award - £3627
Compensatory award - £5889.56

Total award £9516.56

Employment Judge Warren
Signed on 18 June 2019

Judgment sent to Parties on
4 July 2019

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2405626/2018**

Name of case(s): **Mr K Molek** v **Kaliber Marketing (Holdings) Ltd.**

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding discrimination or equal pay awards or sums representing costs or expenses), shall carry interest where the sum remains unpaid on a day ("*the calculation day*") 42 days after the day ("*the relevant judgment day*") that the document containing the tribunal's judgment is recorded as having been sent to the parties.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant judgment 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 judgment day" is: **4 July 2019**

"the calculation day" is: **5 July 2019**

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

MISS K MCDONAGH

For and on Behalf of the Secretary of the Tribunals

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 discrimination or equal pay awards* or sums representing costs or expenses) if they remain wholly or partly unpaid after 42 days.

3. The 42 days run from the date on which the Tribunal's judgment is recorded as having been sent to the parties and is known as "the relevant judgment day". The date from which interest starts to accrue is the day immediately following the expiry of the 42 days period called "the calculation day". The dates of both the relevant judgment 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 a 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.

* The Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 prescribes the provisions for interest on awards made in discrimination and equal pay cases.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.

