



EMPLOYMENT TRIBUNALS

Claimant: Ms Y Hough

Respondent: Lynn Pinder t/a The Bakeaway

HELD AT: Manchester

ON: 21 November 2019

BEFORE: Employment Judge Ainscough (sitting alone)

REPRESENTATION:

Claimant: Mr D Hough

Respondent: Ms L Pinder

JUDGMENT

1. The claimant's claim for unfair dismissal is successful.
2. The amount awarded to the claimant for the Basic Award in accordance with section 118(1)(a) and section 119 of the Employment Rights Act 1996 is based on her employment from 3 December 2012 – 12 June 2019 (6 years) and her weekly wage of £131.36. The claimant was 52 years of age at the date of dismissal and the claimant is therefore entitled to 1.5 weeks pay for each year of employment.. The Basic Award is £1182.24.
3. In accordance with section 122(2) of the Employment Rights Act 1996 this amount is reduced by 50% to take account of the claimant's conduct which contributed to her dismissal. **Therefore, the Basic Award is £591.12.**
4. The amount awarded to the claimant for the Compensatory award in accordance with section 118(1)(b) and section 123 of the Employment Rights Act 1996 is based on her weekly wage of £131.36. The claimant will receive £1839.04 for wage loss incurred between 12 June 2019 – 19 September 2019 (14 weeks) based on her full weekly wage. As a result of the claimant failing to fully mitigate her loss she will receive £919.52 for the period 19 September 2019 – 26 December 2019 (14 weeks) based on 50% of her full weekly wage. The total amount of the Compensatory award is £2758.56.
5. In accordance with section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992, the claimant will also receive a 25% uplift on the compensatory award only, in accordance with section 124A of the Employment

Rights Act 1996, as a result of the respondent's failure to follow the ACAS Code of Practice in regard to a disciplinary procedure. This uplift equates to £689.74.

6. The amount awarded to the claimant for the respondent's failure to provide her with written particulars of employment is £525.44 based on four weeks wages in accordance with section 38 of the Employment Act 2002.

7. The total amount of the compensatory award is £3973.74. In accordance with section 123(6) of the Employment Rights Act 1996 this amount is reduced by 50% to take account of the claimant's conduct which contributed to her dismissal. **Therefore, the Compensatory Award is £1986.87.**

8. The claimant is awarded **£250** for loss of statutory rights. This award takes account of the claimant's conduct which contributed to her dismissal.

9. The claimant is awarded **£234.36** for non-payment of accrued but untaken holiday in accordance with regulation 14 of the Working Time Regulations 1998.

10. The claimant's claim for compensation for the respondent's failure to provide written reasons for dismissal contrary to section 92 of the Employment Rights Act 1996 is without merit and is dismissed.

11. The claimant's claim for costs under rule 77 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 is also dismissed because I am not of the view that the respondent has acted vexatiously, abusively, disruptively or otherwise unreasonably in the conduct of these proceedings.

11. I am satisfied the claimant has not received the relevant benefits for the purposes of recoupment under the Employment Protection (Recoupment of Benefits) Regulations 1996.

Employment Judge Ainscough

6 December 2019

JUDGMENT SENT TO THE PARTIES ON
10 December 2019

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2410363/2019**

Name of case: **Ms Y Hough** v **Lynn Pinder t/a The Bakeaway**

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: 10 December 2019

"the calculation day" is: 11 December 2019

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

MR S ARTINGSTALL
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.