



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
Mrs J Makin

Respondent
Masterpalm Properties

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Manchester on 25 November 2019.

EMPLOYMENT JUDGE Warren

Representation

Claimant – in person

Respondent – Mr I Marshall (Remedy only)

JUDGMENT

1. The claimant was unfairly dismissed. Her claim succeeds.
2. The claimant was dismissed in breach of contract. She is entitled to compensation amounting to 9 weeks pay.
3. There was a failure by the respondent to complete a fair procedure and the compensatory award is uplifted by 15%.
4. The respondent is ordered to pay the claimant the sum of nine thousand one hundred and four pounds and seventy seven pence (£ 9104.77) calculated in accordance with Schedule A attached hereto.
5. The Recoupment Regulations apply and are dealt with in paragraph 5 of Schedule A attached hereto.

SCHEDULE A Case numbered 2410456/2019

This Schedule is part of the Judgement in the above numbered case signed by Employment Judge Warren on 25 November 2019

1 The effective date of termination of the claimant's employment was 7 May 2019. At that date the claimant was 54 years old and had 9 complete years' service. She earned an average week's pay of 195.50 gross and 188.49 net. She is entitled under ERA 1996 s.119 to a **basic award** of $9 \times 1.5 \times 195.50$. The award is therefore **£2639.25**.

2 The compensatory award for unfair dismissal before adjustment is £4448.28 calculated as follows – loss of earnings from 3 July 2019 to 25 November 2019 – based on a net average weekly income (as agreed by the parties) of £188.49 - amounts to £4052.53. In addition the employer's average pension contributions amount to £45.75, and loss of statutory protection amounts to £350.00, totalling £4448.28. There is then to be deducted 1 week's wages in the claimant's new employment at £188.49, and 2 weeks work she had as a cleaner £334.00, leaving a total compensatory award of **£3925.79**

3 The ACAS uplift in this case was awarded at 15% taking into account the following factors :- the failure to notify the claimant of the allegation she faced, the failure to invite her to an investigation meeting, the refusal to hold the disciplinary hearing on a date suitable to her union representative, the disciplinary hearing lasting just over 3 minutes, the claimant not being given any of the evidence against her in advance of either the disciplinary hearing or the appeal hearing to consider, it was considered that in this case it is just and equitable to increase the award by 15 %. The compensatory award so adjusted is **£ 4514.65**.

4 The total award of compensation for unfair dismissal is **£7154.90**, and we order the respondent to pay that sum to the claimant.

5 For the purposes of the Recoupment Regulations the prescribed period is 3.7.2019 to 25.11.2019, the total monetary award is **£9104.77**, the amount of the award which relates to that period is **£ 4052.53**, and the balance of the award in excess of that amount is **£5052.24**.

Compensatory award for Breach of contract

6. The claimant was dismissed in breach of contract. Her loss as a result of that breach was her net pay of £ 188.49 per week for 9 weeks, a net sum of £1696.41. For the reasons given above, that amount is increased by 15 %. The amount so adjusted is **£1950.87**, and the respondent is ordered to pay to the claimant compensation in that amount.

Employment Judge Warren

Signed on 25 November 2019

Oral reasons having been given at the Hearing, written reasons may be requested within 14 days

Judgment sent to Parties on

11 December 2019

Claimant **Mrs J Makin**
Respondent **Masterpalm Properties**

**ANNEX TO THE JUDGMENT
(MONETARY AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

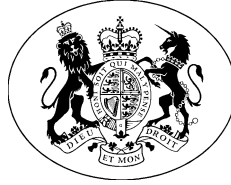
The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2410456/2019**

Name of case: **Mrs J Makin** v **Masterpalm Properties**

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: **11 December 2019**

"the calculation day" is: **12 December 2019**

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

For the Employment Tribunal Office