



EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Revive Dental Care Limited

Heard at: Manchester

On: 4 and 5 December 2017

Before: Employment Judge Porter
Mr Q Colborn
Mr W K Partington

Representation

Claimant: In person

Respondent: Mr R Chaudry, consultant

JUDGMENT having been sent to the parties on 11 December 2017 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. Written reasons are provided pursuant to the written request of the claimant by e-mail dated 11 December 2017.
2. This is a remedy hearing following the reserved decision on the substantive merits of the claim. Written reasons for our original decision were sent to the parties on 5 January 2017 ("the written reasons"). The claimant claims compensation as set out in a Schedule of Loss, which sets out, in part, the claimant's assertions in the claim for compensation, which we have considered with care.
3. The claimant claims:-

- 3.1 loss of earnings from 21 October 2014 to the hearing date;
- 3.2 compensation for injury to feelings;
- 3.3 compensation for injury to health;
- 3.4 aggravated damages;
- 3.5 interest

Submissions

4. The claimant made a number of oral submissions which the tribunal has considered with care but does not rehearse in full here. In essence it was asserted that:-
 - 4.1 the delay in the grievance procedure had a significant impact on her health, extending well beyond the time when the outcome of the grievance was known;
 - 4.2 The claimant has had suicidal thoughts and has torn her hair out and banged her head against the floor with frustration. The claimant became housebound, isolated. She does not believe that she will ever again work as a dental nurse;
 - 4.3 the delay in the tribunal proceedings has caused additional stress. That delay was caused by the respondent, which has acted in a high-handed manner and aggravated damages should be awarded;
 - 4.4 the claimant needs further treatment but is unable to have that treatment until the case is closed;
 - 4.5 the claimant's mental breakdown in February 2016 was caused by the respondent's discriminatory act;
 - 4.6 the claimant suffered panic attacks at her other places of work causing her to lose income;
 - 4.7 the claimant lost earnings from the date of suspension to the remedy hearing and is entitled to compensation for that loss;
 - 4.8 there should be an uplift in compensation by reason of the respondent's failure to follow the ACAS Code relating to the grievance;

5. Consultant for the respondent made a number of detailed written and oral submissions which the Tribunal has considered with care but does not rehearse in full here. In essence it was asserted, in addition to the written submissions, that:-

- 5.1 the respondent is blameless. It accepts responsibility for the actions of Bridgewater up to the date of the TUPE transfer. The respondent offered the claimant work but she did not want to return the work with her former work colleagues who had made the complaints against her;

- 5.2 the claimant has pursued no claim against the respondent for its actions, she pursued no grievance against the respondent after the TUPE transfer;

- 5.3 the delay in handling the grievance was caused by Bridgewater seeking medical advice and there was a delay in the claimant providing relevant information;

- 5.4 the claimant's medical condition is long standing and complex. There is no satisfactory evidence that the extent of the claimant's deterioration in health was caused by the delay in the grievance. It is clear that the claimant was affected by many matters for which the respondent is not liable - the nature of the complaints made against her, her suspension from work, the outcome of the grievance, her personal circumstances such as her problems with neighbours;

- 5.5 the award of compensation for injury to feelings should fall in the lower Vento band or at the lowest level of the middle band;

- 5.6 it is not appropriate to make any award for aggravated damages. The claimant has suffered normal litigation anxiety. Any complaint that the respondent failed to comply with Orders of the tribunal should be considered as part of any costs application;

Evidence

6. The claimant gave evidence. She called no witnesses.
7. The respondent called no evidence.
8. The claimant provided her evidence from a written witness statement. She was subject to cross-examination, and given the opportunity for re-examination.

9. Reference was made to the bundle of documents prepared for the hearing on the substantive merits of the case. In addition the claimant provided further documentary evidence as exhibits to her witness statement. References to page numbers in these Reasons are references to the page numbers in the Bundle of documents prepared for the earlier substantive hearing.

Additional Findings of Fact

10. The tribunal has considered its findings of fact as set out in the written reasons. Having considered all the evidence the tribunal has made the following additional findings of fact. Where a conflict of evidence arose the tribunal has resolved the same, on the balance of probabilities, in accordance with the following findings.
11. The claimant was upset by the delay in the handling of her informal and formal grievances from October 2014 until the outcome was declared. The delay led to an increase in symptoms of low mood and anxiety, poor sleep, anxiety, fearfulness tearfulness and poor appetite, for which the claimant sought medical assistance.

[On this the tribunal accepts the evidence of the claimant, as supported by the medical and other documentary evidence. Although the claimant has a history of anxiety and depression, and there were other stress factors at the time -- for example, reference to problems with neighbours and loss of her income from Bridgwater - it is clear that the claimant did experience an increase in symptoms of low mood and anxiety because of the delay in the handling of the grievance. That is expressly referred to in both the medical evidence and in the claimant's contemporaneous diary entries. It is a reasonable inference that the increase in upset and anxiety caused by the delay in receiving the grievance outcome ended when that outcome was received by the claimant. There is no satisfactory medical evidence to support the claimant's assertion that her feelings of stress anxiety and low mood arising from the delay in the grievance extended beyond the date she was notified of the outcome of the grievance. Her evidence on that point is not accepted.]

12. There is no satisfactory evidence to support the claimant's assertion that her inability to work after her suspension from Bridgewater, her mental breakdown in February 2016, her decision not to work as a dental nurse again, was caused by the delay in the grievance. The claimant's evidence on this is inconsistent. As stated above, it is clear that the delay in the grievance did have an adverse effect on the claimant's health. It caused her anxiety and stress. However, it is clear that the claimant was extremely upset by, and her feelings of anxiety and stress increased because of, other matters including, in particular:

- 12.1 the complaints made against her by her former work colleagues, in particular by Rachel Manning;
- 12.2 Debbie Greenall's decision to refuse to offer the claimant further work;
- 12.3 Ms Helen Adams' decision that the claimant's grievance was not well-founded;
- 12.4 The outcome of the formal grievance in June 2015.

The medical evidence also indicates that some of the health problems suffered by the claimant related to her medical treatment and long standing medical problems.

13. The claimant has worked as a self employed dental nurse, at several different practices for a number of years. Bridgewater was one of those practices. When she was suspended from work by Bridgewater the claimant continued to work on a self-employed basis for different dental practices. There is no satisfactory evidence to support the claimant's assertion that the delay in her grievance, the discriminatory act, caused a loss of earnings from the other dental practices.
14. A preliminary hearing was held before EJ Porter on 26 January 2017 following the reserved judgment of the tribunal, sent to the parties on 5 January 2017. The purpose of the hearing was to progress the claim to a remedy hearing following the reserved judgment.
15. Orders were made at that preliminary hearing including the following:
 - The claimant shall by no later than 23 March 2017 send to the respondent's representative copies of the medical reports and evidence upon which she intends to rely at the remedy hearing.
 - The respondent shall by no later than 6 April 2017 confirm to the claimant if it requires its own medical expert's report.
 - The claimant consents to a medical examination by, and disclosure of her medical records to, the respondent's nominated expert. The costs of that medical examination will be borne by the respondent, who will send a copy of any such medical report to the claimant within 14 days of receipt and by no later than 1 June 2017.
 - The Remedy Hearing shall take place at Manchester Employment tribunal, Alexandra House, 14-22, The Parsonage, Manchester M3 2JA on **5 July 2017** commencing at 9.45 am for 10.00am or as soon

thereafter as the case can be heard. Neither party is required to attend that hearing.

16. By letter dated 16 March 2017 the tribunal was notified that the claimant had instructed solicitors, who sought a variation of the timetable for the Orders made at the hearing on 26 January 2017 and a consequent postponement of the remedy hearing. The respondent agreed to the requested variation and postponement.

17. As a consequence the Orders were varied to read:

- The claimant shall by no later than 28 April 2017 send to the respondent's representative copies of the medical reports and evidence upon which she intends to rely at the remedy hearing.
- The respondent shall by no later than 12 May 2017 confirm to the claimant if it requires its own medical expert's report.
- The claimant consents to a medical examination by, and disclosure of her medical records to, the respondent's nominated expert. The costs of that medical examination will be borne by the respondent, who will send a copy of any such medical report to the claimant within 14 days of receipt and by no later than 30 June 2017.

18. The Remedy hearing was relisted for 9 August 2017.

19. By letter dated 17 May 2017 the claimant's solicitor notified the tribunal that the respondent had failed to comply with the Order set out in the paragraph 2 above. The respondent's representative advised the tribunal that it did wish to progress with instruction of its own medical expert. No explanation was given for the failure to comply with the Order. It was simply stated "We apologise for the delay in replying as the case handler has been out of the office."

20. The remedy hearing was postponed pending the report from the medical expert to be instructed on behalf of the respondent. The hearing on 9 August 2017 was converted to a private preliminary hearing to consider orders for medical evidence.

21. At that preliminary hearing on 9 August 2017 it was noted that:

- 21.1 The respondent has not yet arranged for an appointment with a medical expert, has not yet notified the claimant of the identity of that expert.
- 21.2 Further Orders were made to progress the respondent's request for a medical report by its nominated expert.

21.3 The remedy hearing has been delayed by the actions of the respondent. It is not in the interest of justice that the remedy hearing be delayed further. Whereas Employment Judge Porter understands that the claimant is upset by the delay, and wishes to ensure that the respondent complies with any new Orders, EJ Porter does not agree that it is appropriate that an Unless Order be made. In essence, the respondent has one final chance to obtain its own medical evidence. If it fails to do so, fails to comply with the orders of this tribunal, then the remedy hearing shall proceed on the basis of the medical evidence provided by the claimant.

22. Orders were made as follows:

1. The respondent shall by no later than 23 August 2017 send to the claimant:
 - 1.1 The name and address of its nominated expert;
 - 1.2 The date and time of an appointment with that expert;
 - 1.3 A Consent form for signature by the claimant whereby the claimant will give consent to the disclosure of her medical records to that nominated expert.
2. The claimant shall by no later than 30 August 2017 send the consent form, duly signed, back to the respondent's representative.
3. The claimant consents to a medical examination by, and disclosure of her medical records to, the respondent's nominated expert. The costs of that medical examination will be borne by the respondent, who will send a copy of any such medical report to the claimant within 14 days of receipt and by no later than 31 October 2017.
4. Evidence shall be adduced in the form of witness statements which shall be prepared and exchanged (not necessarily simultaneously) between the parties no later than 14 November 2017. These statements are to be prepared on the basis that they contain the full and complete evidence in chief of the witness. All witness statements shall contain numbered paragraphs.
5. The remedy hearing shall be listed on a date to be fixed, the first convenient date after 28 November 2017, estimated length of hearing 2 days, commencing each day at 2pm.

23. The Orders were sent to the parties on 22 August 2017.

24. The Remedy hearing was relisted on 4 and 5 December 2017.

25. The respondent failed to comply with the Orders, failed to respond to correspondence from the tribunal about that failure.

26. The claimant was upset by the delay in the remedy hearing. Her feelings of anxiety and stress were heightened by the delay and the respondent's failure to comply with Orders of the tribunal. The respondent was fully aware of the effect of the delay on the claimant.

[On this the tribunal accepts the evidence of the claimant and notes in particular that at the preliminary hearing on 9 August 2017 it was noted that the claimant discussed how upset she was by the delay in the remedy hearing.]

27. The continuing conduct of these proceedings has an adverse effect on the claimant's health, her feelings of stress and anxiety continue as she awaits the outcome of this claim.

[On this the tribunal accepts the evidence of the claimant, as supported by the medical and documentary evidence.]

28. In or around February 2016 the claimant suffered a significant deterioration in her mental health, which she describes as a mental breakdown. No satisfactory evidence has been provided to establish a causal link between that significant deterioration in mental health and the discriminatory act.

29. By letter dated 1 March 2017 Dr J Johnson, consultant psychiatrist reports:

X was rather upset and tearful from the start of the consultation and seemed frustrated that although she has seen a number of professionals from mental health over the last couple of years there were differing opinions on her psychiatric diagnosis and essentially she has been unable to move on in life....

X stated that her mental health deteriorated significantly since being taken off antidepressants..

There is a history of significant mood changes with evident depressive symptoms with high levels of comorbid anxiety...

A further and quite significant stressor is the on-going legal proceedings in connection with her employment as a dental nurse and employment being terminated in what she firmly believes as an unfair dismissal. This has no doubt had a significant adverse impact on her self-confidence.

30. The claimant has been assessed for further treatment by Shireen Gaur, Clinical Psychologist. By letter dated 12 September 2017 Shireen Gaur indicated that she would place the claimant's name on a waiting list for further treatment. There is no satisfactory evidence to support the assertion that any such future treatment has been delayed pending the determination of this claim.

31. The conduct of this claim is a significant stressor for the claimant, whose return to good health is in part dependent upon the closing of these proceedings.

[On this the tribunal accepts the evidence of the claimant as supported by the medical evidence.]

The Law

32. The amount of compensation in cases of discrimination should be calculated in the same way as damages in tort. **Ministry of Defence -v- Cannock & Others [1994] ICR 918**. A Tribunal should determine what loss, financial and non-financial, has been caused by the discrimination in question. The EAT stated 'as best as money can do it, the applicant must be put into the position she [or he] would have been in *but for* the unlawful conduct'. The tribunal must ascertain the position that the claimant would have been in had the discrimination not occurred. Tribunals can award full compensation for the loss suffered. See **Ministry of Defence -v- Hunt & Others [1996] ICR 554**: there is no upper limit on awards.
33. In **Wardle -v- Credit Agricole Corporate and Investment Bank 2011 IRLR 604** the Court of Appeal held that it will be a rare case where it is appropriate for a Court to assess compensation over a career life time, but that is not because the exercise is in principle too speculative. If an employee suffers career loss it is incumbent on the Tribunal to do its best to calculate the loss albeit that there is a considerable degree of speculation. It cannot lie in the mouth of the employer to contend that because the exercise is speculative the employee should be left with smaller compensation than the loss he actually suffers. The job of the Courts is to compensate for loss actually suffered
34. In relation to an award of compensation for injury to feelings, the onus is on the applicant to establish the nature and extent of the injury to feelings. The amount of the award under this head should be made taking into account the degree of hurt, distress and humiliation caused to the complainant by the discrimination. We have considered the case of **Armitage Marsden & HM Prison Service -v- Johnson (1997) ICR 275** and in calculating the award for injury to feelings in this case have applied the principles as set out therein which we summarise as follows:-
- Awards for injury to feelings are compensatory not punitive.
 - Awards should not be too low, as that would diminish respect for the policy of anti-discrimination legislation. Nor should they be so excessive as to be viewed as "untaxed riches".

- Awards should be broadly similar to the whole range of awards in personal injury cases.
 - Tribunals should remind themselves of the value in every day life of the sum they have in mind.
 - Tribunals should bear in mind the need for public respect for the level of awards made.
35. In **Alexander -v- The Home Office [1998] IRLR 190 CA** the Court of Appeal said that the level of injury to feelings awards should not be minimal, because this would tend to trivialise or diminish respect for the public policy to which the (Race Relations) Act gives the effect. On the other hand awards should not be excessive because this does almost as much harm to the same policy.
36. Compensation for injury to feelings may include an added element of aggravated damages where the respondent has behaved in a high-handed, malicious or oppressive manner in committing the discriminatory act. **Alexander -v- The Home Office** (supra). Aggravated damages are available to applicants for the statutory tort of sex discrimination. The tort may be sufficiently intentional as to enable the applicant to rely upon malice or the respondent's manner of committing the tort or other conduct as aggravating the injury to feelings. Features of mitigation, including the proffering of an apology, should be taken into account in assessing the level of aggravated damages. **Armitage, Marsden & HM Prison Service -v- Johnson** (supra).
37. We have considered the decision and guidance given by the Court of Appeal in **Vento v Chief Constable of West Yorkshire Police (No.2)** [2003] IRLR 102 in which the Court of Appeal confirmed that in carrying out an assessment of compensation tribunals should have in mind the summary of the general principles on compensation for non-pecuniary loss by Smith J in *Armitage v Johnson* (above). The Court of Appeal observed: Three broad bands of compensation for injury to feelings, as distinct from compensation for psychiatric or similar personal injury, can be identified:
- The top band should normally be between £15,000 and £25,000. Sums in this range should be awarded in the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment on the grounds of sex or race. Only in the most exceptional cases should an award of compensation for injury to feelings exceed £25,000.
 - The middle band of between £5,000 and £15,000 should be used for serious cases, which do not merit an award in the highest band.

- Awards of between £500 and £5,000 are appropriate for less serious cases, such as where the act of discrimination is an isolated or one off occurrence. In general, awards of less than £500 are to be avoided altogether, as they risk being regarded as so low as not to be a proper recognition of injury to feelings.
38. There is within each band considerable flexibility allowing Tribunals to fix what is considered to be fair, reasonable and just compensation in the particular circumstances of the case. Regard should also be had to the overall magnitude of the sum total of the awards of compensation for non-pecuniary loss made under the various headings of injury to feelings, psychiatric damage and aggravated damage. In particular double recovery should be avoided by taking appropriate account of the overlap between the individual heads of damage. The extent of overlap will depend on the facts of each particular case.
39. We note the formal revision of these bands in the case of **Da’Bell v NSPCC 2010 IRLR 19** , giving £6000 as the top of the lower band, £18,000 as the top of the middle band, and £30,000 as the top of the upper band.
40. In **Olayemi v Athena Medical Centre and anor** the EAT followed the decision in **Beckford v London Borough of Southwark 2016 IRLR 178, EAT** and confirmed that the general uplift in general damages in all civil claims for pain and suffering, loss of amenity, physical inconvenience and discomfort, social discredit, mental distress (as determined in **Simmons v Castle [2013] 1 WLR 1239**) – apply to claims in the Employment Tribunal for personal injury or injury to feelings.
41. Presidential guidance has been given in relation to an increase in the Vento bands for claims presented after 11 September 2017. The increased Vento bands shall be as follows:
- a lower band of £800 to £8,400;
 - a middle band of £8,400 to £25,200;
 - an upper band of £25,200 to £42,000;
 - with the most exceptional cases capable of exceeding £42,000.
41. Section 207A (2) of the Trade Union and Labour Relations (Consolidation) Act 1992 provides:
- If, in any proceedings to which this section applies, it appears to the Employment Tribunal that:-

- i. the claim to which the proceedings relate concerns the matter to which a relevant Code of Practice applies;
- ii. the employer has failed to comply with that Code in relation to that matter;
- iii. the failure was unreasonable.

The Employment Tribunal may, if it considers it just and equitable in all the circumstances to do so, increase any award it makes to the employee by no more than 25%.

42. Interest may be awarded under the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. Interest is calculated as simple interest accruing from day to day. The current interest rate is 8%. Interest is awarded in injury to feelings awards from the date of the act of discrimination complained of until the date on which the tribunal calculates the compensation.

43. The tribunal has jurisdiction to make an award of compensation for personal injury caused by any discriminatory act under Equality Act 2010. In awarding compensation for psychiatric or similar personal injury the tribunal should have regard to the Judicial studies Board Guidelines for the Assessment of General Damages in Personal Injury cases.

44. The tribunal has considered the authorities referred to in submissions.

Determination of the Issues

(This includes, where appropriate, any additional findings of fact not expressly contained within our findings above but made in the same manner after considering all the evidence)

45. The claimant is entitled to compensation for loss arising from the discriminatory acts of Bridgewater for which the respondent is liable.

46. The respondent is liable for one discriminatory act, as set out in the written Reasons, namely the failure to make reasonable adjustments, the failure to deal with the claimant's grievance more quickly, up to the date of the TUPE transfer.

47. The tribunal has considered all the evidence and its findings to determine what loss arose from the discriminatory act. The claimant is not entitled to compensation for losses which did not flow from the discriminatory act.

Injury to feelings

48. The tribunal refers to its findings at paragraph 169 of the written Reasons. There was an unreasonable delay in relation to the handling of the informal grievance, which was submitted in October 2014. The claimant was entitled to an outcome within seven days. She received the outcome by letter dated 17 December 2014. The claimant presented her formal grievance by letter dated 21 December 2014. An investigator was not appointed until March 2015. By the time of the TUPE transfer on 1 April 2015 the claimant had not received an outcome. The claimant received the outcome of her formal grievance in June 2015 (see paragraphs 101-102 of the written reasons)
49. The claimant was upset by the delay in the grievance proceedings, which led to an increase in symptoms of low mood and anxiety, poor sleep, anxiety, fearfulness, tearfulness and poor appetite.
50. The claimant discussed her increased anxiety with health professionals at the time. The tribunal refers in particular to the medical evidence referred to in paragraphs 111, 113, 114-118 of the written Reasons. There is clear medical evidence to support the claimant's assertion that the delay in the grievance procedure increased her anxiety, that the delay in the grievance was a trigger factor for an episode of low mood and anxiety, which led to the claimant referring herself to the Mental Health team in March 2015.
51. However, there is no satisfactory evidence to support the assertion that the claimant's inability to work for a lengthy period between her suspension of work and this hearing, her mental breakdown in February 2016, her decision not to work as a dental nurse again, was caused by the delay in the grievance. The claimant's evidence on this is inconsistent. As stated above, it is clear that the delay in the grievance did have an adverse effect on the claimant's health. It caused her anxiety and stress. However, it is clear that the claimant was extremely upset by, and her feelings of anxiety and stress increased because of, many other factors as set out at paragraph 12 above. The medical evidence also indicates that some of the health problems suffered by the claimant related to her medical treatment and long standing medical problems.
52. The tribunal has considered whether the injury to feelings falls within the Lower or Middle Vento bands. The tribunal has considered all the circumstances including in particular the following:
 - 52.1 the claimant was adversely affected by waiting for the outcome of her grievance. Her increased feelings of anxiety and low mood took place until she was aware of the outcome of the grievance. There is no satisfactory medical evidence to support the claimant's assertion that her feelings of stress anxiety and low mood arising from

the delay in the grievance extended beyond her knowing the outcome of the grievance;

- 52.2 The period of the delay for which the respondent is responsible is a period of 5 to 6 months between October 2014 and April 2015;
- 52.3 the act of discrimination is not an isolated or one off occurrence;
- 52.4 the effect on the claimant was quite severe. She suffered an increase in anxiety and low mood for which she sought medical assistance. The delay in the grievance was a trigger point for a self referral to the Mental Health team in March 2015 (see paragraphs 114 and 115 of the written reasons);
- 52.5 No satisfactory evidence has been provided to establish a causal link between the significant deterioration in the mental health of the claimant in February 2016 and the discriminatory act. It is noted that the claimant received the outcome of her formal grievance in June 2015 (see paragraphs 101-102 of the written reasons).

In all the circumstances the tribunal finds that this case falls within the middle band of the Vento guidelines. The tribunal does not agree that an award should be made at the lower end of that band. The tribunal assesses and awards compensation in the sum of £11,000.00.

Aggravated damages

- 53. The respondent has known from an early stage that the claimant's health, her feelings of anxiety, are adversely affected by delay. There are clear findings to that effect in the written reasons. The documentary evidence is clear.
- 54. The respondent has not provided any satisfactory explanation for, in the conduct of this case, seeking orders for medical evidence, with consequent delays to the remedy hearing, when no such medical evidence was in fact obtained by the respondent. The respondent was responsible for the postponement of the hearing on 9 August 2017 because it persisted with its request to medical evidence -- medical evidence that was never a obtained.
- 55. In these circumstances the further delay to this remedy hearing, a delay caused by the respondent without satisfactory explanation, has led to

increased feelings of anxiety on behalf the claimant. There is clear evidence that the claimant's return to good health is in part dependent upon the closing of these proceedings. An increase to the claimant's injury to feelings, her feelings of stress and anxiety, has been caused by the respondent's wholly inappropriate and unreasonable conduct of these proceedings.

56. It is appropriate to make a further award of £6,000.00 by way of aggravated damages, to compensate the claimant for the increased feelings of stress and anxiety caused by the respondent's wholly inappropriate and unreasonable conduct. The tribunal rejects the respondent's assertion that the appropriate remedy is an award of costs or preparation time order. The claimant may wish to pursue an application for costs and/or preparation time order as a separate application at the conclusion of these proceedings.

Personal Injury

57. There is no satisfactory evidence that the claimant has suffered any additional injury to health, other than the increased stress and anxiety, which has been compensated for in the award for injury to feelings. There is no satisfactory evidence to support the claimant's assertion that:

57.1 her mental breakdown in February 2016 was caused by the respondent's discriminatory act, its failure to make reasonable adjustments, the delay in the grievance; and/or

57.2 the claimant suffered panic attacks in her other work places, thereby causing her to lose income, because of the respondent's discriminatory act, the delay in the grievance procedure.

58. The claimant was concerned about, her feelings of stress and anxiety were increased by, the outcome of her grievance and the statements made by her former work colleagues as part of grievance. The outcome of the grievance, the conduct of the grievance, and the statements made by her work colleagues as part of that grievance, are not discriminatory acts. The claimant is not entitled to compensation for injury to feelings and/or health caused by non-discriminatory acts. The tribunal has compensated the claimant for injury to feelings caused only by the delay in the grievance process. That injury to feelings award includes compensation for increased stress and anxiety. In all circumstances it is not appropriate to make any further award of compensation for personal injury. The claimant is adequately compensated in the award for injury to feelings and aggravated damages.



Loss of earnings

59. There is no satisfactory evidence to support the assertion that any loss of earnings was caused by the discriminatory act. The claimant makes a claim for loss of earnings arising, in part, from her suspension from work and the decision that she would no longer be offered any shifts by Bridgewater. The suspension and decision that the claimant would no longer be offered any shifts are not discriminatory acts. The claimant also raises a claim for loss of earnings arising from the claimant's inability to work by reason of her ill health. The claimant was not fit to attend work for a considerable period of time in between the suspension from work by Bridgewater and the remedy hearing. However, there is no satisfactory evidence to support the assertion that the claimant's inability to work arose because of the discriminatory act. There were many other factors affecting the claimant's health. The claimant's evidence on the cause of her inability to work has been unsatisfactory and inconsistent. It is noted that the claimant did continue to work as a self employed dental nurse after she was suspended from work by Bridgewater, while she was awaiting the outcome of her grievance. There is no satisfactory evidence to support the claimant's assertion that she suffered panic attacks in her other work places, thereby causing her to lose income, because of the respondent's discriminatory act, the delay in the grievance procedure. There is no satisfactory evidence as to the circumstances in which the claimant stopped that work, no satisfactory evidence providing a chain of causation between the discriminatory act and the loss of earnings.

Interest

60. The tribunal awards interest on the award of injury to feelings as claimed in the Schedule of Loss for the period 22 October 2014 to the date of the hearing. This is a period of 1140 days at the rate of £2.41 per day. A total of £2,747.40 is awarded.

Employment Judge Porter
Date: 26 January 2018

REASONS SENT TO THE PARTIES ON
31 January 2018

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2405125/2015

Name of case(s): X v Revive Dental Care Limited

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 2017

"the calculation day" is: 12 December 2017

"the stipulated rate of interest" is: 8%

MISS L HUNTER
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.justice.gov.uk/tribunals/employment/claims/booklets

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.