



EMPLOYMENT TRIBUNALS

Claimant: Mr P Metcalfe

Respondent: Green Energy International Ltd

REMEDY JUDGMENT

Whilst the parties do not agree that this Judgment should be issued, the parties have agreed the remedy due to the claimant following the Judgment of the Employment Tribunal on the liability issues (which was reserved and sent to the parties on 11 September 2020), and accordingly the Judgment as to remedy is as follows:

1. The respondent must pay to the claimant a statutory redundancy payment of **£2,362.50**. As this is awarded, there is no basic award due for unfair dismissal, which would in any event have been the same amount.
2. The respondent must pay to the claimant a compensatory award of **£1,092.31** as compensation for unfair dismissal. This consists of the prescribed element of **£792.31** which relates to the period from 2 to 8 September 2019, and an award for loss of statutory rights of **£300**.
3. The respondent must pay to the claimant the sum of **£115.96** net which has been unlawfully deducted from his pay (and for which tax and NI have already been deducted in respect of the amount in accordance with a payslip provided to the claimant).
4. The respondent must pay to the claimant the gross sum of **£237.69** which has been unlawfully deducted from his pay.

REASONS

1. Judgment of the Employment Tribunal on the liability issues was reserved and sent to the parties on 11 September 2020.
2. The parties have agreed the amounts which should be awarded as a result, and those amounts are recorded in this Judgment.
3. The respondent objects to a Judgment being issued as there are other proceedings between the parties. It accepts that the Tribunal does have the power to issue a Judgment but instead asks that the Tribunal proceedings be stayed pending

the outcome of the other proceedings. The claimant asks that Judgment be issued as the sum is agreed and states that no remedy hearing is required.

4. The primary basis upon which a stay is sought is because the respondent asserts that it has the right to set-off the sum due to the claimant. The respondent asserts that the sum due in the other proceedings will exceed what is due in these proceedings. It asserts that if the claimant takes steps to enforce this Judgment that will incur additional costs for both parties, when in practice it believes that the sum which it will be awarded in the other proceedings will exceed the amount awarded to the claimant in this claim.

5. The Tribunal can certainly see that the respondent's suggestion, that enforcement be delayed, is sensible and may avert the parties incurring unnecessary costs. However, questions of enforcement do not fall within the jurisdiction of the Tribunal.

6. The Tribunal has determined that it is appropriate to issue this Judgment because:

- a. There is no question of the Court hearing the other proceedings being embarrassed by this Judgment, the matters determined are specific to the remedy due for unfair dismissal and unlawful deduction from wages, matters which fall only within the jurisdiction of the Tribunal and in which determination of liability has already been made;
- b. Whatever the outcome in the other proceedings, remedy in these proceedings will still need to be determined. Whether or not the sum awarded can be set-off against any other award can be determined in the other proceedings (if appropriate to do so);
- c. Interest accrues to the claimant only if the sum is not paid within 14 days after the date that the document recording this Judgment is sent to the parties, and it is not appropriate for this to be delayed because of the other proceedings; and
- d. The recoupment regulations in any event apply to the prescribed element of the compensatory award and therefore it is appropriate for Judgment to be issued so that the recoupment notice can be issued (see attached). The parties' attention is brought to what is said in the attached recoupment notice regarding the prescribed element (that is £792.31). The respondent must retain the prescribed element until it receives from the Department of Work and Pensions a Notice. That process needs to be undertaken.

7. The remedy hearing listed for 16 March 2021 is vacated.

Employment Judge Phil Allen

Date: 26 January 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON

8 February 2021

FOR THE TRIBUNAL OFFICE

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: **2411460/2019**

Name of case: **Mr P Metcalfe** v **Green Energy International 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: **8 February 2021**

"the calculation day" is: **9 February 2021**

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

For and on Behalf of the Secretary of the Tribunals

Claimant **Mr P Metcalfe**
Respondent **Green Energy International Ltd**

**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.