



EMPLOYMENT TRIBUNALS

Claimant: Miss F Davis

Respondent: Computer Planet Limited

HELD AT: Manchester (by CVP)

ON: 11&12 February 2021
and 22&23 April 2021

BEFORE: Employment Judge Peck (sitting alone)

REPRESENTATION:

Claimant: Mr D Bheemah (barrister)

Respondent: Mr A Barr (Director)

JUDGMENT

1. The respondent's counter contract claim is dismissed upon withdrawal by the respondent.
2. The claimant's claim for unpaid wages is dismissed upon withdrawal by the claimant.
3. The claimant's claim for unfair dismissal is well-founded and succeeds.
4. The claimant's wrongful dismissal claim is well-founded and succeeds.
5. The respondent unreasonably failed to follow the ACAS Code of Practice on Disciplinary and an uplift of 15% is awarded on compensation.
6. The dismissal was contributed to by the claimant's actions, and the compensation is to be reduced by 50% in accordance with Sections 122(2) and 123(6) Employment Rights Act 1996.
7. No reduction is made to the compensation awarded to the claimant under *Polkey v AE Dayton Services [1987]*.
8. The recoupment regulations apply.
9. The total award payable by the respondent to the claimant is £19,586.96, as follows:-

- a. Basic award of £647.75 (50% of £1,295.49, being the claimant's basic award calculated by reference to a gross weekly wage of £431.83).
 - b. Loss of earnings of 2 weeks (£717.40) and 102 weeks and 4 days (£36,874.36) (in each case, by reference to a net weekly wage of £358.70) totalling £37,591.76.
 - c. £300 in respect of loss of statutory rights.
 - d. Less sums earned by way of mitigation in the amount of £4,954.
 - e. ACAS uplift of £4,940.66.
 - f. Less reduction for contributory fault of £18,939.21.
10. The recoupment regulations apply. The total monetary award is £19,586.96 (**A**). The prescribed element is £15,960.18 (**B**), being the part of the award attributable to past loss of earnings (£36,874.36 less £4,954) and with an appropriate % reduction to reflect contributory fault. The prescribed period is 6 May 2019 – 23 April 2021. The excess of A over B is £3,626.78.

Employment Judge Peck

27 April 2021

JUDGMENT SENT TO THE PARTIES ON

5 May 2021

FOR THE TRIBUNAL OFFICE

Notes

1. The "Code V" in the heading indicates that this hearing was held by way of the HMCTS "Cloud Video Platform". Neither side requested an in person hearing and it was in accordance with the overriding objective to conduct the hearing by video conference call.
2. 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.
3. 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: **2405750/2019**

Name of case: **Miss F Davis** v **Computer Planet Limited**

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: **5 May 2021**

"the calculation day" is: **6 May 2021**

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

For and on Behalf of the Secretary of the Tribunals

Claimant **Miss F Davis**
Respondent **Computer Planet Limited**

**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.