



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms M Rehman

**Respondent:** Department for Work and Pensions

**Heard at:** East London Hearing Centre (CVP)

**On:** 3 November 2021

**Before:** Employment Judge Jones

**Members:** Ms A Labinjo  
Ms R Hewitt

Written representation from both parties.

## RESERVED JUDGMENT

1. The claimant is awarded £7,500 for injury to feelings for her successful complaint.
2. The claimant is also entitled to interest payable at 8% = £600.
3. The claimant is awarded a total remedy of £8,100.
4. The respondent is ordered to pay her the total sum of £8,100.00

## REASONS

1. The claimant was successful in one of her complaints of disability discrimination. In the liability judgment, the tribunal set out at paragraph 246 a summary of the judgment which was that the claimant succeeded in her complaint that the respondent breached its duty to provide her with a reasonable adjustment by not providing an adjusted chair between 8 January and July 2018. The respondent also failed to consider giving her paid special leave in the same period. All other complaints failed and were dismissed.
2. Today was the remedy hearing for the tribunal to decide the remedy due to the claimant on her successful complaint.

3. The parties wrote to the Tribunal to submit a revised schedule and the counter schedule of loss. The parties also agreed that the tribunal could decide the remedy award on the papers without the parties needing to attend today's hearing. Both parties had the opportunity to make written submissions on the remedy.
4. In determining the remedy due to the claimant, the tribunal noted the following facts:

Facts relevant to remedy

5. The claimant was born on 17 November 1969. The claimant began her employment with the respondent on 5 April 1999. The claimant was employed as a work coach at executive officer grade. The claimant took medical retirement on 1 October 2020. The circumstances surrounding her retirement were not part of this case although we were told in the hearing, that she was unhappy with some of those circumstances.
6. The claimant's complaints were successful to the extent set out above. The only claim that succeeded was the complaint that the respondent failed in its duty make reasonable adjustments because it failed to provide the claimant with an adjusted chair between January and July 2018. We also judged that the respondent failed to agree/consider paid special leave for the same period of time.
7. The tribunal can only award remedy for successful complaints. In her revised schedule of loss the claimant has referred to a number of matters for which she claims compensation but which the Tribunal did not judge to be successful. The claimant did not succeed in a complaint that the respondent breached the ACAS code in the grievance process, nor did she succeed in a personal injury claim, or a complaint of harassment or a complaint of discrimination arising from disability. The tribunal is therefore unable to make an award for compensation for those complaints.
8. In considering what remedy was due to the claimant, the Tribunal considered the following law:

Law

*Injury to Feelings*

9. The Court of Appeal has given guidance on the assessment of compensation for injury to feelings. In the case of *Vento v Chief Constable of West Yorkshire police (No.2) [2002] EWCA Civ 1871* the Court set bands within which they held that most tribunals should be able to place their awards for successful discrimination complaints. Those bands have been amended through subsequent case law and more recently, they have been the subject of Presidential Guidance, from the President of the Employment Tribunals. The applicable bands are as follows: In cases of the most serious kind, the injury to feelings award would normally lie between £27,000 – £45,000. In the middle band, in less serious cases the award would be between £9,000 - £27,000; while for less serious cases such as for one-off

acts of discrimination or otherwise, the award would be between £900 - £9,000.

10. Awards for injury to feelings are purely compensatory and should not be used as a means of punishing or deterring employers from a particular course of conduct. On the other hand, as stated in *Harvey*, discriminators must take their victims as they find them; once liability is established, compensation should not be reduced because (for example) the victim was particularly sensitive. The issue is whether the discriminatory conduct caused the injury, not whether the injury was necessarily a foreseeable result of that conduct. (*Essa v Laing* [2004] IRLR 313).
11. In making an award for injury to feelings a tribunal needs to be aware of the leading cases. Much will depend on the particular facts of the case and whether what occurred formed part of a campaign or harassment over a long period, what actual loss is attributable to the discrimination suffered, the position and seniority of the actual perpetrators of the discrimination and the severity of the act/s that have been found to have occurred as well as the evidence of the hurt that was caused.
12. A tribunal has the power to award interest on awards made in discrimination cases both in respect of pecuniary and non-pecuniary losses. We refer to the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. We will consider awarding interest whether a party has asked us to do so or not. The interest is calculated as simple interest which accrues daily. For past pecuniary losses interest is awarded from the half-way point between the date of the discriminatory act and the date of calculation. For non-pecuniary losses interest is calculated across the entire period from the act complained of to the date of calculation. The tribunal retains discretion to make no award of interest if it deems that a serious injustice would be caused if it were to be awarded but in such a case it would need to set out its reasons for not doing so.

### Decision

13. It is this tribunal's judgment that the claimant is entitled to an award for injury to feelings. There was no claim for loss of wages between the period of January to July 2018 and it is likely that the claimant was paid full pay during those months. We did not have a personal injury claim in this case.
14. In deciding on the level of injury to feelings we bore in mind that the respondent did make some reasonable adjustments for the claimant. Those are set out in the liability judgment. We also considered that the claimant was in pain at work and that she made her managers aware of this on a regular basis, either verbally or by completing AR1 forms which she submitted to Ms Basford. This was due to the failure to give her the appropriate chair or to allow her to take special leave over the period.
15. We agree with the respondent that the level of injury to feelings should be placed within the lowest band because it relates to the success of one aspect of a much larger claim. The complaint was finite and was eventually resolved when the chair was purchased and installed in July. The

respondent did resolve the claimant's other issues such as the printer and did make adjustments in the work that she was expected to do during this time. She was not expected to do any casework and was allowed to leave work early when she needed to.

16. The Tribunal takes all of this into consideration in its judgment that the claimant will be awarded injury to feelings in the sum of £7,500.
17. The Tribunal also considered it appropriate to award the claimant interest on the injury to feelings. These events occurred in 2018 and it has taken until now for the claimant to be awarded her remedy. The delay was not solely due to one party but given that 3 years have passes since the events in this claim, it is this Tribunal's judgment to award the claimant interest at the rate of 8%.  $£7,500 \times 8\% = £600$ .
18. The claimant is entitled to the total remedy award of  $£7,500 + £600 = 8,100.00$ .
19. The respondent is ordered to pay the claimant sum of £8,100 forthwith.

**Employment Judge Jones**  
**Date: 3 November 2021**