



## EMPLOYMENT TRIBUNALS

**Claimant - Ms Harriet Crayford**

**Respondent - The Trees Swindon Old Town Limited t/a The Trees Day Care Nursery**

**Heard at: Bristol (by Cloud Video Platform)**

**On: 25 and 26 March 2021**

**Before: Employment Judge Lowe**

### **Appearances**

**For the claimant:** Represented by Mr Kennedy

**For the respondent:** Mr Richard Lay, In Person

## JUDGMENT

The claimant's claim of unfair dismissal is upheld.

Compensation is calculated as follows:

Basic Award:	NIL
Compensatory Award:	£7,627.76
Loss of Statutory Rights:	£500

Total compensation for unfair dismissal: £8,127.76 (less recoupment itemised below)

Regulation 4(3) of The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 requires that the written judgment should include four specific particulars:

- (a) The monetary award: £8,127.76
- (b) The amount of the Prescribed Element: £1,946.82
- (c) The dates of the period to which the Prescribed Element relates:

Employment Support Allowance from 6 May 2020 – 10 August 2020 (total £983.91)  
Job Seeker's Allowance from 30 October 2020 – 29 December 2020 (total £962.91)

- (d) The amount, if any, by which the monetary award exceeds the Prescribed Element:  
£6,180.94

## ANNEX TO THE JUDGMENT

### Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance, universal credit and Income Support

The tribunal has awarded compensation to the claimant but not all of it should be paid immediately. This is because the Department for Work and Pensions (DWP) has the right to recover (recoup) any Jobseeker's Allowance, income-related Employment and Support Allowance, universal credit or Income Support which it 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 should state the total monetary award made to the claimant and an amount called 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 DWP sends the recoupment Notice, the respondent must pay the amount specified in the Notice by the department. 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 Department informs the respondent that it does not intend 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 DWP. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the DWP in writing within 21 days. The Tribunal has no power to resolve such disputes which must be resolved directly between the claimant and the DWP.

Employment Judge Lowe

Date: 26 March 2021

Judgment sent to the Parties: 21 April 2021

FOR THE TRIBUNAL OFFICE

#### Notes

#### Reasons

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.

#### Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.