



EMPLOYMENT TRIBUNALS

Claimant: Mr J Ezard

Respondent: Total Physiotherapy Limited
(in voluntary liquidation)

Heard at: Manchester via Cloud Video
Platform

On: 17 October 2022

Before: Employment Judge Dennehy

REPRESENTATION:

Claimant: In person

Respondent: No attendance

JUDGMENT

The judgment of the Tribunal is that:

1. The Claimant's ET1 is amended to include a breach of contract claim for six weeks unpaid notice provided that within 28 days of today's date the Respondent has not requested a reconsideration, the amendment shall stand.
2. The Respondent shall pay to the Claimant the sum of £1,346.28 gross (weekly wage of 224.38 x 6) for six weeks unpaid notice pay. The Tribunal calculates the amount of payment on a gross basis, and the Respondent is entitled to make any deductions which are due for tax and national insurance contributions before payment is made to the Claimant.
3. The Claimant was fairly dismissed by reason of redundancy, however the process followed was unfair due to a lack of consultation and the Tribunal finds that the Claimant was unfairly dismissed by the Respondent.
4. The Claimant's basic award for unfair dismissal is in the sum of £448.76 (weekly wage of 224.38 x 2) but this is reduced to nil as the Claimant has already received the sum of £448.76 from the Insolvency Service for two weeks redundancy payment.

5. The Claimant's compensatory award is nil in accordance with the so-called Polkey principle (see Polkey v AE Dayton Services Limited 1988 ICR 142) to reflect the likelihood that even if consultation had taken place and a fair process followed, the Claimant would still have been dismissed in any event as the Respondent had gone into liquidation.
6. The Claimant's complaint of a failure by the Respondent to consult and to comply with the requirements of Trade Union and Labour Relations (Consolidation) Act 1992 s188 is well founded and the Tribunal orders the Respondent to make a protective award under TULR (C) A 1992 s189 a payment equivalent to remunerations for the period of 90 days beginning on 02 May 2022 to the Claimant.

Employment Judge Dennehy

Date: 18 October 2022

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES
ON

25 October 2022

FOR THE TRIBUNAL OFFICE

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/employmenttribunal-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 ARTICLE 12

Case number: **2405675/2022**

Name of case: **Mr J Ezard** v **Total Physiotherapy Ltd**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 25 October 2022

the calculation day in this case is: 26 October 2022

the stipulated rate of interest is: **8% per annum**.

For the Employment Tribunal Office