



EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Northern Care Alliance NHS Foundation Trust

Heard at: Manchester (by CVP)

On: 28 October 2022

Before: Employment Judge McDonald

REPRESENTATION:

Claimant: Mr N Coleman (Lay Representative)

Respondent: Mr A Gibson (Solicitor)

REMEDY JUDGMENT

The judgment of the Tribunal is that:

1. The respondent is ordered to pay the claimant damages for wrongful dismissal in the sum of **£6,038**. The basis for calculating that amount is set out in the “Calculation” section below. I award that amount gross on the basis that the employer will then deduct from those amounts such sums as it is required to deduct by reason of tax or national insurance legislation.
2. The respondent is ordered to pay the claimant by way of compensation for unfair dismissal:
 - a. a basic award of **£807**
 - b. a compensatory award of **£20,662.59**.

The compensatory award and the basic award together amount to £21,469.59. The basis for calculating those amounts is set out in the “Calculation” section below.

3. The Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996 applies to the unfair dismissal compensatory award. The prescribed period is 29 November 2020 until 28

October 2022. The prescribed element is **£20,662.59** and the amount by which the total monetary award exceeds the prescribed element is **£6,845**.¹

Calculation of the awards made

1. I set out below my calculation of the awards made, giving brief reasons on the dispute matters between the parties.
2. The wrongful dismissal damages award consists of gross pay of £2,504 per month x two months and an employer's pension contribution of £515 based on 20.6% of that gross pay x 2 months.
3. The parties agreed that the basic award for unfair dismissal before deductions was £1067 (2 x weekly pay capped at £538). In my liability judgment I decided that should be reduced by 25% to reflect the claimant's contribution to his dismissal, leaving £807 as the basic award amount.
4. I awarded the claimant £500 for loss of statutory rights.
5. I awarded the compensation for the claimant's loss of earnings based on a period of loss up to but not beyond 1 March 2022. To avoid double recovery, I disregarded the first two months after his dismissal in calculating his loss of earnings. The total loss during that 15 month period was £43,633.50. From that I deducted the £7,400 earnings in the claimant's Schedule of Loss, which gives a net loss of earnings figure of £36,233.50. I added to that the £500 for the loss of statutory rights, which means that the starting point for the compensatory award before the **Polkey** and contributory fault deductions set out in my liability judgment is £36,733.50.
6. The 25% Polkey deduction is £9,183.38. That reduced the compensatory award to £27,550.12. I deducted from that the 25% deduction for contributory fault, which is £6,887.53. That leaves a final compensatory award of £20,662.59.
7. Because the total figure falls below the £30,000 tax threshold for termination payments, I do not need to gross up the figures. It is also below the 52 weeks' pay maximum statutory amount, and I do not therefore have to cap the compensation at any level.

Employment Judge McDonald
Date: 28 October 2022

¹ In giving oral judgment I erroneously gave the prescribed element as £21,469.59 and the amount by which the total monetary award exceeded it as £6038. I have corrected that in this written version of the judgment.

JUDGMENT SENT TO THE PARTIES ON
1 November 2022

FOR THE TRIBUNAL OFFICE

Note

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 shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**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.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2401030/2021**

Name of case: **X** v **Northern Care Alliance
NHS Foundation Trust**

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: 1 November 2022

the calculation day in this case is: 2 November 2022

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

Mr S Artingstall
For the Employment Tribunal Office

GUIDANCE NOTE

1. There is more information about Tribunal judgments here, which you should read with this guidance note:
www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426

If you do not have access to the internet, you can ask for a paper copy by telephoning the Tribunal office dealing with the claim.

2. The payment of interest on Employment Tribunal awards is governed by The Employment Tribunals (Interest) Order 1990. Interest is payable on Employment Tribunal awards if they remain wholly or partly unpaid more than 14 days after the **relevant decision day**. Sums in the award that represent costs or expenses are excluded. Interest starts to accrue from the day immediately after the **relevant decision day**, which is called **the calculation day**.
3. The date of the **relevant decision day** in your case is set out in the Notice. If the judgment is paid in full by that date, no interest will be payable. If the judgment is not paid in full by that date, interest will start to accrue from the next day.
4. Requesting written reasons after you have received a written judgment does **not** change the date of the **relevant decision day**.
5. Interest will be calculated as simple interest accruing from day to day on any part of the sum of money awarded by the Tribunal that remains unpaid.
6. If the person paying the Tribunal award is required to pay part of it to a public authority by way of tax or National Insurance, no interest is payable on that part.
7. If the Secretary of State has claimed any part of the sum awarded by the Tribunal in a recoupment notice, no interest is payable on that part.
8. If the sum awarded is varied, either because the Tribunal reconsiders its own judgment, or following an appeal to the Employment Appeal Tribunal or a higher court, interest will still be payable from **the calculation day** but it will be payable on the new sum not the sum originally awarded.
9. The online information explains how Employment Tribunal awards are enforced. The interest element of an award is enforced in the same way.