



EMPLOYMENT TRIBUNALS

Claimants: Miss H Grogan

Respondent: (1) Greenbrow Social Club Ltd (In Administration)

(2) The Secretary of State for Business, Energy and Industrial Strategy

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The first respondent has failed to present a valid response on time. The Employment Judge has decided that a determination can properly be made of those parts of the claims set out below, under rule 21 of the Rules of Procedure.

1. The claimant claims unfair dismissal, notice pay, and holiday pay arising out of her employment with the respondent from 15 January 2015 until 3 November 2020, 5 years of completed service. She was aged 53 at the time of her dismissal. Her basic award is calculated at 1.5 weeks pay for every year of service.

2. Whilst the claimant has contended that her gross weekly pay was £191.00, the payslips that she has now provided with her email to the Tribunal of 9 November 2022, however, consistently show gross pay of £144.50 per week.

3. The claimant, it seems, has based her claim upon working a 22 hour week, at what was the applicable NMW rate of £8.72 per week. This produces a weekly pay figure of £191.84, and it is this that this claimant has put in her ET1 form, and upon which she has based her calculations for the purposes of these claims. The claimant has since explained how the lower figure was what she received on furlough, and hence is only 80% of her full pay. The Tribunal accepts therefore that the correct figure upon which to base its awards is £191.84 per week.

4. Taking that figure, however, at face value, would give her an entitlement to basic award of :

7.5 weeks at £191.84 = **£1438.80**

8. Whilst she has not ticked the box for redundancy pay, the claimant has, in box 9.2 sought that. A basic award, however, exhausts any entitlement to a statutory

redundancy pay, and this sum cannot be awarded twice.

9.The claimant also seeks notice pay. She has a statutory entitlement to 5 weeks notice , which at £191.84 per week, makes a potential award of **£959.20**. That sum is payable gross (although it is unlikely there would be any tax liability, but if there is it is the claimant and not the respondent who is responsible for it), and would be subject to deductions for any sums earned in the notice period, or any benefits received during it, and because of the dismissal. The claimant has confirmed that there were none.

10.The claimant , however, sets out her claim also seeks compensation of one week’s pay for every week between the date of her dismissal, and the date of the original hearing on 17 August 2021. The first respondent, however, went into Administration on 21 July 2021 and the Tribunal accordingly considers that it is more likely than not that the claimant’s employment would have ended then in any event. That is a period of 37 weeks from the date of dismissal.

11.The claimant has provided further information by email of 8 November 2022, in which she explains that she did not obtain alternative employment in the period after her dismissal up to the date of the Administration, as she had another job, nor did she claim benefits. Her losses therefore are the earnings she would have received between 3 November 2020 and 21 July 2021, after the initial 5 weeks notice period, as the claimant cannot claim twice in respect of the same period .

12.Based on her pre – furlough net weekly earnings of £176.76 per week, her compensatory award for loss of earnings is accordingly:

$$32 \text{ weeks} \times \text{£}176.76 = \textbf{£5656.32}$$

13.The Tribunal, given that the claimant’s employment would have ended in any event upon the Administration , does not consider it just and equitable to make any award in respect of loss of statutory rights.

14.Finally, the claimant makes a claim for holiday pay, which she calculates at **£702.13**, based on 3.66 weeks for 22 hours , on a 7 day week, at £8.72 per hour untaken holiday entitlement. That sum is a gross sum, (although it is unlikely there would be any tax liability, but if there is it is the claimant and not the respondent who is responsible for it)

15.To summarise, therefore, the awards of the Tribunal for the claimant are:

Basic Award for Unfair Dismissal	£1438.80
Compensatory Award for Unfair Dismissal	£5656.32
Notice pay	£959.20
Holiday Pay	£702.13

which sums the first respondent is ordered to pay to the claimant without any deductions, the claimant being responsible for accounting to HMRC for any tax and national insurance due upon these sums.

Employment Judge Holmes
Date: 3 February 2023

JUDGMENT SENT TO THE PARTIES ON
7 February 2023

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FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2420722/2020**

Name of case: **Miss H Grogan** v **1. Greenbrow Social Club Ltd (In Administration)**
2. Secretary of State for Business & Industrial Strategy

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: 9 February 2023

the calculation day in this case is: 10 February 2023

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.