



EMPLOYMENT TRIBUNALS

Claimant: Richard Brown

Respondent: The Church of England Children's Society

Heard at: Manchester **On:** 21 April 2022

Before: Employment Judge Liz Ord

Representation:

Claimant: In person

Respondent: Mr G Baker (Counsel)

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The tribunal determines that it is necessary in the interests of justice to reconsider its judgment dated 9 September 2022.
2. On reconsideration, and there being no objection from the respondent, the claimant's application for reconsideration is granted and the judgment is varied as follows:
 1. As compensation for unfair dismissal, the respondent is ordered to pay the claimant a compensatory award of **£42,870.48** (including £400.00 for loss of statutory rights).
 2. The tribunal makes no basic award.
 3. The required recoupment information is set out below in the final section of these reasons.

REASONS

1. The calculation of the compensatory award is incorrect. After paragraph 106, under “**Calculations**” “**The compensatory award**” “**Deductions**” the judgment is varied to read as follows:

2- Mitigation earnings

Income from work with Clover HR:

From 1.4.2021 to 21.4.22 = £9,717.32

3- Polkey

$£66,642.82$ (total loss) – $(9,717.32 + 156.98) = 56,768.52$
 $(9,874.30)$

Taking account of 20% reduction:

$80\% \times 56,768.52 = £45,414.82$

4- Excess contractual redundancy

The excess contractual redundancy payment is then deducted.

Excess = $7,921.46$ (total redundancy payment) - $3,937.50$ (used to extinguish basic award) = $£3,983.96$

$£45,414.82 - £3,983.96 = £41,430.86$

5- Gross Up

The first £30,000 is tax free. The balance is subject to the claimant’s marginal rate of tax, which is 20%. Therefore £11,430.86 is grossed up.

$80\% = 11,430.86$

$100\% = 11,430.86/80 \times 100 = 14,288.58$

Total compensatory award $30,000 + 14,288.58 = \mathbf{£44,288.58}$

6. Cap

As the award is above the cap, it is adjusted downwards to the cap level of £42,470.48. **£42, 470.48** is the compensatory award.

Recoupment

Loss of wages = 54,556.00

Income from subsequent work = 9,717.32

Balance = 44,838.68

Take account of 20% Polkey reduction = 80% x 44,838.68 = 35,870.94

Minus excess redundancy: 35,870.94 - 3,983.96 = 31,886.98

Summary

The Prescribed Element is **£31,886.98**

The total monetary award is **£42,870.48** (£42,470.48 + £400.00)

The excess of total monetary award over the prescribed element is:
£10,983.50

The Prescribed Period is 31 March 2020 to 21 April 2022.

Employment Judge Liz Ord
Date 6 April 2023

JUDGMENT SENT TO THE PARTIES ON
11 April 2023

FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2406253/2020**

Name of case: **Mr R Brown** v **The Church of England
Children's Society**

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: 11 April 2023

the calculation day in this case is: 12 April 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.

**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.