



EMPLOYMENT TRIBUNALS

Claimant: Mr I Evans

Respondent: CH Hydraulics Limited t/a Pirtek Ellesmereport

HELD AT: Manchester

ON: 28 September 2023

BEFORE: Employment Judge Slater

REPRESENTATION:

Claimant: In person

Respondent: Did not attend (no response presented)

JUDGMENT

The judgment of the Tribunal is that:

1. The Tribunal has jurisdiction to consider the complaint and the complaint of constructive unfair dismissal is well founded.
2. The respondent is ordered to pay to the claimant the total sum of £18,731 compensation for unfair dismissal.
3. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply to this award. The grand total of the award is £18,731. The prescribed element is £8828. The period of the prescribed element is 1 April 2023 to 28 September 2023. The excess of the grand total over the prescribed element is £9903. The annex to this judgment explains the operation of the Recoupment Regulations.

Calculation of compensation

Gross weekly pay with respondent , excluding bonus: £673
 Net weekly pay with respondent including overtime but excluding bonus: £508
 Bonus of £500 gross, net £400 per month (£92 per week) payable up to and including December 2023.
 Age at EDT: 36
 Dates of employment with respondent: 1 April 2021 to 31 March 2023
 New employment began 12 June 2023.
 Net weekly pay with new employer: £442
 Minimum employer’s pension contributions paid by respondent and new employer c. £60 per month (£14 per week).

Basic award

2 x £571 (max weekly pay as at EDT) = £1142

Compensatory award

Loss 1 April 2023 to 11 June 2023 (10.5 weeks)

Loss of pay: 10.5 x £508 =	£5334	
Bonus: 10.5 x £92 =	£966	
Employer’s pension contribs: 10.5 x £14 =	<u>£147</u>	
		£6447

Loss 12 June 2023 to 28 September 2023 (16 weeks)

Take pension as equivalent so no loss for employer’s pension contributions

Difference in pay: 16 x (508 – 442) =	£1056	
Bonus: 16 x £92 =	<u>£1472</u>	
		£2528

Future loss (2 years):

Bonus October to December 2023		
3 x £400 =	£1200	
Difference in pay: 104 x 66 =	<u>£6864</u>	
		£8064

Loss of statutory rights		£500
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Job hunting expenses		<u>£50</u>
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Total compensatory award		£17,589
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Grand total

Basic award	£1142
Compensatory award	<u>£17,589</u>
	£18,731

Employment Judge Slater
Date: 28 September 2023

JUDGMENT SENT TO THE PARTIES ON
3 October 2023

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.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2404342/2023**

Name of case: **Mr I Evans** v **CH Hydraulics Limited**
t/a Pirtek Ellesmereport

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: 3 October 2023

the calculation day in this case is: 4 October 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.