



## EMPLOYMENT TRIBUNALS

**Claimant:** Mrs M. Harkin

**Respondent:** Laniwyn Care Services Ltd

**Remedy Hearing**

**Heard at:** Bury St Edmunds by Video

**On:** 26 September 2023

**Before:** Employment Judge Boyes (Sitting Alone)

Representation

Claimant: In Person

Respondent: Mr Laniyan, Director

### JUDGMENT

1. There is no order for reinstatement of reengagement.
2. The Respondent shall pay compensation to the claimant for unfair dismissal of £14,153.13 made up as follows:
  - a. A basic award of £ 0.00
  - b. A compensatory award of £14,153.13 [less any reduction for income tax and national insurance contributions due on the sum awarded for lost pension contributions [£709.15] which has been awarded as a gross sum -see \* below]

*The total compensatory award stated above is adjusted from the sum announced orally at the remedy hearing. This is because not all of the Claimant's actual earnings for the period 2 March 2022 to 26 September 2023 had been included in that calculation.*

### Calculation of Award

Gross salary: £32,100

Gross weekly salary: £617.31 (salaried income)

Net weekly pay: 519.97 (based on actual net pay September 2021-March 2022)

Dates of employment: 1/1/2020 -1/3/2022

Date of birth:16/8/1960

Age at time of dismissal: 61 years

### Unfair dismissal

#### **A. BASIC AWARD**

3 Week's pay x £544 (capped at statutory weekly maximum) = £1632

Sum paid by Respondent as redundancy pay = £1682

**Total Basic Award: £00.00 [A]**

#### **B. COMPENSATORY AWARD**

**Immediate Loss** (loss of wages (net) from dismissal to date of remedy judgment)  
**[Prescribed amount]**

Notional pay of £519.97 per week from 2 March 2022 to 26 September 2023 (81 weeks 6 days): = £42,563.26

Less net sums earned between 2 March 2022 and 26 September 2023:

TopKare Ltd: £2308.38

The Doting Carers: £2491.27

Hales SW: £23,206.31 sums earned between 2 March 2022 and 26 September 2023

The Doting Carers: £7,382.70 (including pro-rata sum of £1729.88 for earnings 1-26 September 2023)

Total earnings= £35,388.66

Immediate Loss =£42,563.26 - £35,388.66 = **£7174.60**

*The figure for actual earnings between 2 March 2022 and 26 September 2023 has been adjusted from the figure used to calculate the compensatory award at the remedy hearing as net pay from Hales SW in April 2023 (£2436.41) and May 2023*

(£2810.15) as well as a pro-rata sum of £1729.88 for earnings 1-26 September 2023 had been omitted from that calculation.

**Total Prescribed Element is £7174.60**

**Non-Prescribed element (other losses)**

(a) **Future Loss** (loss of wages (net) from date of remedy judgment for 52 weeks)

519.97(previous net earnings) - 443.56(current net earnings) = £76.41

76.41 x 52 = **£3973.32**

(b) **Loss of employer's pension contributions** (from date of dismissal to date of remedy hearing only) (Respondent paid 15.77 per week. Actual payment to date £1,257.12- £547.97 = **709.15 gross\***

*\*The sum awarded for loss of employer pension contributions is awarded gross and so is subject to any income tax and national insurance due on that sum which is to be deducted by the Respondent*

(c) Loss of statutory rights - **£500**

Total (a) +(b) + (c) = **£5182.24**

Less excess payment for redundancy **£50** = **£5132.47**

**Total Non-prescribed Element= £5132.47**

**Prescribed + non-prescribed elements =£12,307.07**

**Breach of ACAS code -15% increase = £1846.06**

**Polkey reduction: 0%**

**Reduction for Contributory Fault: 0%**

**Total Compensatory Award (£12,307.07 + £1846.06)= £14,153.13 [B]**

**Grand total A + B = £14,153.13**

**Recoupment**

Regulation 4(3) of The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply and attention is drawn to both the following paragraph and the Annex to this judgment requires that the written judgment should include four specific particulars:

(a) The monetary award: **£14,153.13**

(b) The amount of the Prescribed Element: **£7174.60**

(c) The dates of the period to which the Prescribed Element relates: **2 March 2022 to 26 September 2023 (Benefit: Jobseekers Allowance)**

(d) The amount, if any, by which the monetary award exceeds the Prescribed Element: £6978.53

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Employment Judge Boyes

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Date: 10 October 2023

Judgment Sent to The Parties On  
7 November 2023

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**FOR EMPLOYMENT TRIBUNALS**

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**ANNEX TO THE JUDGMENT**

**Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance, Universal Credit and Income Support**

The Tribunal has awarded compensation to the claimant but not all of it should be paid immediately. This is because the Department for Work and Pensions (DWP) has the right to recover (recoup) any Jobseeker's Allowance, income-related Employment and Support Allowance, Universal Credit or Income Support which it 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 should state the total monetary award made to the claimant and an amount called 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 DWP sends the Recoupment Notice, the respondent must pay the amount specified in the Notice by the department. 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 Department informs the respondent that it does not intend 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 DWP. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the DWP in writing within 21 days. The Tribunal has no power to resolve such disputes which must be resolved directly between the claimant and the DWP.**