



EMPLOYMENT TRIBUNALS

Claimant: Mr Darrell Webster

Respondents: (1) JM Transport (Essex) Limited
(2) Helen Macklin

Heard at: East London Hearing Centre

On: 27,28, and 29 February 2024

Before: Employment Judge Volkmer
Members: Mr L O'Callaghan
Ms J Clark

Representation

Claimant: Mrs Burwood-Webster, lay representative (the Claimant's wife)
Respondents: Mr Ramsbottom, professional lay representative

JUDGMENT

1. The complaint of unfavourable treatment because of something arising in consequence of disability is well-founded and succeeds against the First and Second Respondents.
2. The complaint of unfair dismissal is well-founded. The Claimant was unfairly dismissed by the First Respondent.
3. The Respondents unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 and it is just and equitable to increase the compensatory award payable to the Claimant by 25 % in accordance with s 207A Trade Union & Labour Relations (Consolidation) Act 1992.
4. The First and Second Respondents are jointly and severally liable to pay the Claimant the following sums:

- (a) a basic award of **£3,426.00**.
- (b) a compensatory award of **£80,577.26**.

Note that these are actual the sums payable to the claimant after uplifts have been applied.

- 5. The complaint in respect of holiday pay is well-founded. The First Respondent made an unauthorised deduction from the Claimant's wages by failing to pay the Claimant for holidays accrued but not taken on the date the Claimant's employment ended.
- 6. The First Respondent shall pay the Claimant **£378** in respect of accrued but unpaid holiday pay.
- 7. The Claimant is responsible for paying any applicable tax in relation to the above sums.

CALCULATION BREAKDOWN

1. Details

Date of birth of claimant:	19/04/1968
Date started employment:	01/09/2018
Effective date of Termination (“EDT”):	02/09/2022
Age at effective EDT:	54
Net weekly basic pay:	£500.94
Gross weekly basic pay:	£630.00
Contractual or statutory notice period:	4 weeks
Complete years' continuous service:	4 years
Remedy hearing date	29/02/2024
Date by which employer should no longer be liable	29/05/2024

2. Basic award

1.5 (relevant multiplier) x 4 (years' service) x £571 £3,426.00 (gross weekly pay, applying the statutory cap):

Total basic award **£3,426.00**

3. Compensatory award

Past loss of net earnings **£39,003.19**

Number of weeks (77.86 weeks x net weekly pay of £500.94):

Loss of pension (77.86 weeks x 18.90):	£1,471.55
Less earnings	-£8,719.19
Total Past losses before interest:	£31,755.55
Interest	£1,809.63
519 ¹ days between the date of discrimination (2 September 2022) and the date of the remedy hearing (29 February 2024). Interest calculated from mid point (260 days) at a rate of 8%.	
Total Past Losses	£33,565.18
Future loss of net earnings	£6,512.22
Number of weeks (13 weeks x net weekly pay of £500.94):	
Loss of pension (13 weeks x 18.90):	£245.70
Total Future losses	£6,757.92
Loss of Statutory Rights	£450
Injury to Feelings	
Injury to feelings award	£15,000
Interest	£1,706.30
519 ² days between the date of discrimination (2 September 2022) and the date of the remedy hearing (29 February 2024). Interest calculated for 519 days at a rate of 8%.	
Total Injury to Feelings	£16,706.30
Total Compensatory Award before ACAS uplift	£57,479.40
(Total Past Losses + Total Future Losses + Loss of Statutory Rights + Total Injury to Feelings)	
ACAS uplift	
Increase in compensatory award due to respondent's unreasonable failure to comply with the Acas Code 25% x £57,479.40	£14,369.85
Total Compensatory Award	£71,849.25
Grossing up for figure above £30,000	£8,728.01
£41,849.25– (annual personal tax free allowance of	

¹ The number of days referred to in the oral judgment was 187. This was incorrect, the correct number of days between 2 September 2022 and 29 February 2024 is 519 so this calculation has been adjusted accordingly.

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£12,750 less £5,812.79 (sums earned in the tax year) = £6,937.21–
remaining personal tax free allowance)

= £34,912.04 taxable at the basic tax rate of 20%

£34,912.04 divided by (1- tax rate of 0.2) = £43,640.05 as
the grossed up sum.

COMPENSATORY AWARD GRAND TOTAL: £80,577.26

Holiday Pay £378

(0.6 x gross weekly pay of £630)

Employment Judge Volkmer
Dated: 1 March 2024

Notes

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.

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practicedirections/>