



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms D Jones

**Respondent:** (1) Kate Hetherington t/a SP Catering  
(2) Steven Porter t/a SP Catering

**Heard at:** Liverpool (CVP) **On:** 11 April 2024

**Before:** Employment Judge Ainscough

## Representation

Claimant: in person

Respondent: did not attend

# JUDGMENT

## Employment Tribunals Rules of Procedure 2013, Rule 21

**The respondent not having presented a response to the claim and on the information before the Judge,**

1. The respondents are jointly and severally liable for the compensation payable to the claimant.
2. The claims for direct age discrimination, harassment related to age and harassment related to sex are successful.
3. The respondents are ordered to pay the claimant **£15,000** as compensation for injury to feelings.
4. The respondents are ordered to pay the claimant **£600** as compensation for unlawful reduction in hours because of direct age discrimination.
5. The respondents are ordered to pay the claimant **£2116.01** in interest.
6. The claim for loss of statutory rights is successful.

7. The claim for a failure to provide written particulars of employment is successful.
8. The claim for unfair dismissal is successful.
9. The respondents are ordered to pay the claimant **£720** in compensation for the basic award.
10. The respondents are ordered to pay the claimant **£8320** in compensation for the compensatory award.
11. The claim for breach of contract is successful.
12. The respondents are ordered to pay the claimant **£480** in compensation for the failure to pay the claimant notice pay.
13. The claim for holiday pay was successful.
14. The respondents are ordered to pay the claimant **£734.40** in compensation for accrued but untaken annual leave on termination of employment.
15. The claim for unlawful deduction from wages was unsuccessful.

## REASONS

16. The Tribunal accepted that the claimant was entitled to compensation for injury to feelings within the middle band as set out in the case of **Vento v Chief Constable of West Yorkshire Police (2002) EWCA Civ 1871**, which at the time the claimant submitted her claim on 23 November 2022 was £9900 - £29,600.
17. The Tribunal determined that the claimant was paid £10 per hour and worked 16 hours per week prior to the relevant transfer.
18. The Tribunal determined that the claimant worked for the respondents for 3 complete years from 1 May 2019 until 27 October 2022.
19. The Tribunal determined that the respondents treated the claimant less favourably by reducing her hours in August 2022 by 3 hours per week for a period of 4 weeks, in September 2022 by 3 hours per week for a period of 4 weeks and in October 2022 by 9 hours per week for a period of 4 weeks.
20. The Tribunal determined that the claimant was entitled to interest on the injury to feelings award from the first act of discrimination on 20 July 2022 until the date of this hearing at the daily rate of 8%.
21. The Tribunal determined that the claimant was entitled to interest on the financial loss caused by unlawful direct discrimination from the mid point date between 20 July 2022 to the date of this hearing at the daily rate of 8%.

22. The Tribunal determined that the claimant was entitled to notice pay in accordance with section 86 of the Employment Rights Act 1996 of one week for each complete year of service which equated to £480 from 27 October 2022 until 20 November 2022.
23. The Tribunal determined that the claimant was entitled to compensation of £250 for loss of statutory rights.
24. The Tribunal determined that the claimant was entitled to 4 weeks pay which equated to £640 as compensation for the respondents' failure to provide her with written particulars of employment.
25. The Tribunal determined that the claimant was entitled to five weeks actual loss of wages from 20 November 2022 until 23 December 2022 which equates to £800.
26. The Tribunal determined that the claimant obtained new employment on 23 December 2022 from which she receives wages of £90 per week.
27. The Tribunal determined that the claimant was entitled to 68 weeks actual loss of wages from 23 December 2022 to the date of this hearing which equates to £4760.
28. The Tribunal determined that the claimant should be capable of obtaining employment at the same weekly rate of pay that she received when employed by the respondents by no later than 27 October 2024.
29. The Tribunal determined that the claimant is therefore entitled to 28 weeks future loss of earnings from 11 April 2024 until 27 October 2024 which equates to £1960.
30. The Tribunal determined that the total compensatory award prior to adjustment is £7770.
31. The Tribunal determined that the claimant is entitled to a 25% uplift of this amount as a result of the respondents' complete failure to follow the ACAS Code of Practice about disciplinary procedures which equates to £1942.50.
32. The compensatory award, inclusive of the awards for the claimant's actual and future losses, loss of statutory rights, failure to provide written particulars of employment and interest equates to £10,352.52.
33. The statutory cap for the compensatory award in accordance with section 124 of the Employment Rights Act 1996 is limited to 12 months gross pay. The claimant is therefore entitled to a compensatory award of £8320.
34. The Tribunal determined that the claimant's holiday year ran from January to December.

35. In accordance with Regulation 13 of the Working Time Regulations 1998 the claimant was entitled to 5.6 weeks annual leave.
36. The Tribunal has determined that the by the date of the claimant's dismissal, 82% of the leave year had expired.
37. The claimant did not take any annual leave prior to the termination of her employment and had therefore accrued 4.59 weeks annual leave.
38. The claimant was therefore entitled to payment of £734.72 of accrued but untaken annual leave on termination of employment.

Employment Judge Ainscough  
Date 13 May 2024

JUDGMENT SENT TO THE PARTIES ON  
21 May 2024

FOR THE TRIBUNAL OFFICE

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.

**Public access to employment tribunal decisions**

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://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: **2409413/2022**

Name of case: **D Jones** v **1. Kate Hetherington  
t/a SP Catering  
2. Steven Porter  
t/a SP Catering**

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: 21 May 2024

**the calculation day** in this case is: 22 May 2024

**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](http://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.