



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr K Stapleton Copeland

**Respondents: SMC Express Ltd (1)**

**Scott Carroll**

**Heard:** BY CVP **On: 8 July 2024**

**Before:** Employment Judge JM Wade

## Appearances

For the claimant: In person, with Ms Copeland (mother)

For the respondent: did not attend

## JUDGMENT

- 1 The respondents shall pay to the claimant the following sums in respect of unlawful discrimination declared in a Judgment sent to the parties on 4 June 2024.

Injury to feelings: £5000

Interest on Injury to Feelings: £267.

Net lost earnings arising from discrimination/termination of employment: £22015.

The total sum payable by the respondents (who are jointly and severally liable) is ££27, 282.

- 2 The recoupment regulations do not apply to this award.

## REASONS

### Introduction, evidence and hearing

1. The claimant presented his claims and the circumstances are recorded in a case management order and Rule 21 Judgment, sent to the parties on 4 June 2024. These reasons are to be read with that Order and Judgment.
2. This remedy hearing was arranged to assess remedy in the claimant's successful race discrimination and harassment complaints. The respondent did not attend and on application to reconsider the previous liability judgment was before me.
3. I heard sworn evidence from the claimant on his own behalf. He had provided a written statement as ordered and screen shots of text messages between him and Mr Carroll.

### The law

4. The law on remedy is, in summary, as follows. Injury to feelings awards

compensate the injured party for subjective feelings of upset, distress and other challenges to their mental state – anxiety, depression and similar. They are compensatory not punitive. The must command public respect, bearing in mind the Vento bands in force at the time of the contraventions – in this case those contraventions were between August and October 2023. Injury to feelings awards must not be seen as a way to untaxed riches.

5. As for financial loss, the Tribunal must put the successful party in the position he would have been in, but for the contraventions.
6. The Tribunal's power to award interest on either financial or injury to feelings awards is discretionary and must be exercised judicially - the court rate is 8%.

#### Findings and conclusions

7. The claimant worked for the respondent, commencing on 7 August 2023. He was promised a day rate of £115, and a £20 per week bonus for completed weeks, this was said to be equivalent to £2380 every four weeks. He worked as a delivery driver.
8. On or around 18 August he damaged the paintwork on the vehicle coming out of farm gates. He was paid his first two weeks' wages after that, and in September he was paid £2015 for four week's work, less two days.
9. During his employment Mr Carroll said to the supervisor, "don't you think he looks like a black Postman Pat". He also laughed with the supervisor about the claimant's struggles with packages, saying, such as, "I could deliver you in one of those" and similar. The claimant was also not given a loading bay, as other colleagues were. He was the only person of colour at the depot. The claimant put up with this treatment because he had moved into a flat when he secured this post, and needed the job to pay his bills. He had previously lived with his mother.
10. He then worked a complete four weeks, but was not paid on or around 22 October 2023, when his colleagues were paid.
11. When he chased his unpaid October wages and went to the depot to see Mr Carroll, Mr Carroll was not there and nobody else could help him. Mr Carroll then gave an explanation of thousands of pounds of damage as the apparent reason for non payment, whereas nothing had been said about the paintwork damage in August, and the claimant had provided all the requisite paperwork at the time, and taken photographs. Mr Carroll further said, "you will get paid when I pay you".
12. Mr Carroll also then blocked the claimant's messages. The claimant understood the blocking of his messages to be a dismissal and the only work he has secured since has been "Uber Eats" driving, earning £40 here and there. He has not received Universal Credit because, he told me, there is a sanction in force for more than eight hundred days.
13. He was very upset by his discriminatory treatment and did not secure new employment. His hair loss returned (which had been a condition in remission for four years), and he stopped playing football and going to the gym. - his main leisure activities.
14. The claimant sought £21420 in financial loss, sums which he would have earned until the date of his statement, which was 28 May 2024. Bringing that statement up to date and giving credit for a handful of £40 uber eats earnings, I assess the claimant's loss of earnings, which but for the discrimination, he would have earned with the respondent, at £22015.
15. As to the injury to feelings award he seeks, I make that award as claimed.
16. I have a discretion to award interest and in the circumstances eight months' interest is appropriate on the injury to feelings award, which represents discriminatory conduct over just short of three months. I make no interest award

on the lost earnings/financial loss claim, because the claimant would have received those sums in instalments over a period of less than a year, and they may well have fluctuated a little. In those circumstances, standing back and examining the awards in the round, I am satisfied that no interest is appropriate on the financial loss award. Generally, I assess remedy doing the best with the evidence I have heard today, and my conclusions and judgment appear above.

**Employment Judge JM Wade**

**8 July 2024**

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