



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr N Birtwistle

**Respondent:** Philip Ellis Properties Limited

**Heard at:** Manchester On: 20 and 21 February 2025

**Before:** Employment Judge Leach; Mrs C. Linney; Dr B Tirohl.

## REPRESENTATION:

**Claimant:** Ms L Hayworth, claimant's friend

**Respondent:** Ms E Cho, litigation consultant

# JUDGMENT – REMEDY

The claimant succeeded in complaints of unfair dismissal and disability discrimination.

The respondent is ORDERED to pay to the claimant the amounts set out below. The attached schedule sets out the calculation for each amount.

Unfair dismissal	£1307.70
Discrimination (inclusive of interest)	£26,356.86
<b>TOTAL now payable</b>	<b><u>£27,664.56</u></b>

Employment Judge **Leach**  
24 February 2025

JUDGMENT SENT TO THE PARTIES ON  
Date: 17 March 2025

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## 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.

**SCHEDULE****A. Unfair Dismissal**

Basic Award (403.85 x 2) £807.70

Loss of Statutory Rights £500

Total awarded for unfair dismissal **£1307.70**

**B. Discrimination. – injury to feelings**

Injury to feelings **£16,000**

**C. Discrimination – income loss**

(1) Period from 18 November 2020 to 19 March 2021

18/11/20-1/2/21 (10 weeks)

Net pay should have received = 10 weeks @345.05 pw = 3450.50

Income actually received.

Temp employment	1436.01
STATUTORY SICK PAY	1252.55

Net loss = 761.94

2/2/21-19/3/21 (7 weeks)

Net pay should have received = 7 weeks @345.05 pw = 2415.35

Income actually received;		
Temp employment		1824.40
Pay in lieu of notice		807.70
Net loss		(216.75 credit)
Combined net loss for period 18/11/20-19/3/21 =		545.19
Add pension lost pre dismissal (73.40) =		<b>£618.59</b>

**(2)** Loss for period 20 March 2021 to 4 April 2022 (54 weeks)  
(using gross figures)

Loss of 54 x 403.85 = 21,807.90

Income received (from new permanent employment)

263.96 + 18797.68 = 19,061.64

Loss therefore of **£2746.26**

NB although gross figures used (which may give a slightly larger financial difference than net figures) we have not applied any salary increase had claimant remained in respondent employment.

**(3)** Loss for period 5 April 2022 to 4 April 2023 (52 weeks)  
(using gross figures)

Loss of 52 x 403.85 = 21,000.20

Income received = 20,573.18

Loss therefore of **£427.02**

NB although gross figures used (which may give a slightly larger financial difference than net figures) we have again not applied any salary increase had claimant remained in respondent employment.

**(4)** Loss for period 5 April 2023 to 4 October 2023.

(Claimant acting reasonably should have fully mitigated loss within 7 months of receiving the liability judgment).

We have assumed a salary increase by this stage (over 2 years after dismissal and having regard to the significant cost of living increases at this time) of 6%. That provides a weekly pay amount of £428.08

Loss of 26 x 428.08 = 11,130.08

Income received was half of P60 amount of 19844.85 = 9922.42

Loss therefore of	<b>£1207.66</b>
<b>(5) Post dismissal pension loss (5 months at 31.80 pm)</b>	<b>£159.00</b>

**D. Deduction for post dismissal losses ( a 20% chance that dismissal would have occurred anyway – see liability judgment)**

Total of post dismissal losses (losses post dismissal start at 20/3/21)

2746.26 + 427.02 + 1207.66 + 159.00 = £4539.94

80% of which is **£3631.95**

**E. Calculate interest on Injury to feelings.**

Discriminatory acts culminated in dismissal on 1/2/21.

4.04 years @ 8% per year = **£5171.20**

**F. Calculate interest on loss of income.**

Income losses ran from 18/11/20 to 4/10/23.

A total period of 35 months

Applying a mid-way point requires an interest calculation for 17.5 months.

But claimant will not receive income until February 2025. – another 16.5 months from the end of the period of loss.

Therefore interest calculation uses a period of (17.5 + 16.5) 34 months.

Interest applied to **C(1)** – 618.59 PLUS **D** - 3631.95

Total amount to apply interest to therefore is 4250.54

34 months @8% **£935.12**

**G. Total amount awarded for discrimination.**

2407638/2021

$$16,000 + 618.59 + 3631.95 + 5171.20 + 935.12 = \underline{\underline{\text{£}26,356.86}}$$



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2407638/2021**

Name of case: **Mr N Birtwistle** v **Phillip Ellis Properties Ltd**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party 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: **17 March 2025**

**the calculation day** in this case is: **18 March 2025**

**the stipulated rate of interest** is: **8% per annum**.

Paul Guilfoyle  
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.