



EMPLOYMENT TRIBUNALS

Claimant: Mr Neil Wilson

Respondent: Aliaxis UK Limited

Heard at: By CVP

On: 23 January 2026

Before: Employment Judge Jones KC
Mrs Judith Clelow
Mr William Dixon

Appearances:

For the Claimant: In person

For the Respondent: Mr Chris Canning, Counsel

REMEDY DECISION

1. In respect of the claim that the Claimant's dismissal was a breach of **Equality Act 2010, s. 15** the Tribunal makes a compensatory award of **£12,826.30**.
2. In addition, the Tribunal awards interest on the compensatory award in the sum of **£1,331.37**.
3. In respect of injury to feelings, the Tribunal awards **£13,000**.
4. In addition, the Tribunal awards interest on the award for injury to feelings in the sum of **£2,698.80**.
5. In respect of the Claimant's unfair dismissal, the Tribunal awards a Basic Award in the sum of **£936.48**.

REASONS

1. In our judgment of 29 July 2025, the Tribunal found that the Claimant's dismissal:
 - (1) Amounted to a breach of **Equality Act 2010, s. 15**; and
 - (2) Was unfair.
2. We found that had it acted lawfully the Respondent would, instead of dismissing the Claimant, have approached its insurer and informed it that it had concluded that he was, after all, unfit for work and indicated that it no longer objected to payments being made to the Claimant. We further found that:
 - (1) The benefit payable under the insurance policy was 70% of his pay;
 - (2) There was a 20% chance of the insurer conducting its own investigation and declining to make payments;
 - (3) His financial loss was, therefore, 80% of 70% (or 56%) of his pay; and
 - (4) The Claimant would have ceased to be entitled to payments from the insurer on 19 September 2024 and that his employment would lawfully have terminated on that date.
3. The Tribunal had hoped that these findings would have enabled the parties to agree the loss of earnings incurred. Unfortunately, the parties were unable to reach agreement. The total sums claimed in the Claimant's Schedule of Loss were more than an order of magnitude greater than those set out in the Respondent's Counter Schedule.

Calculations

1. Compensation for Discrimination

(a) Pecuniary Loss

(i) Loss of Earnings

4. The Claimant's effective date of termination was 21 June 2023. However, the Claimant was paid 28 days' pay in lieu of notice. His period of loss, therefore, was 19 July 2023 to 19 September 2024 which is period of 428 days¹.
5. The Claimant's Annual Basic Salary was £24,347.14.
6. Had the Claimant been in receipt of permanent health insurance benefit during the period of loss, he would have received 70% of his Basic Salary or £17,043.02 a year. The Respondent put forward a figure for annual net loss of £15,625.44 which was calculated

¹ The Respondent took a different approach: using a period of loss which ran from the EDT to 19 September 2024 and then deducting the PILON as an adjustment to the calculation. However, it involved some difficulty and assumptions in respect of the tax that had been paid on the PILON and it seemed to the Tribunal preferable to treat the period of 28 days covered by the PILON as a period during which no loss of earnings was suffered.

by reference to the tax treatment evidenced by the Claimant's pay slips. The accuracy of the figure was not contested by the Claimant and the Tribunal accordingly adopts it.

7. The daily net loss of permanent health insurance benefit is, therefore, £42.81.
8. The total net loss of permanent health insurance benefit in the period of loss is £42.81 x 428 days, or £18,322.68.
9. The figure falls to be further adjusted in two ways. The first is to give credit for the Universal Credit benefit received by the Claimant during the period of loss on the basis that he would not have received it had he remained in employment and in receipt of permanent insurance benefit from the insurance company. A deduction is made, rather than it being treated as a matter of recoupment as the **Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996** do not apply to compensation for discrimination. The Claimant's figure for Universal Credit in his schedule of loss is £10,812.80 but without any indication of the period over which it was received. The Respondent suggested a lower figure, £4,814.43. Understandably, this lower figure is not specifically contested and we adopt it. That reduces the net loss to £13,508.25.
10. The second adjustment is to take account of our finding that there was an 20% chance that the insurer would have rejected the claim. That means the Claimant's total net loss of permanent health insurance benefit for the period of loss was **£10,806.60**.

(ii) Pension Loss

11. The Claimant provided no particulars of pension loss. The Respondent suggested that the scheme is a defined contribution scheme and that the appropriate course was to calculate the value of the loss of pension contributions. The Claimant did not object to that approach and we have adopted it.
12. Nor was the Respondent's approach to calculation objected to. The approach consisted of calculating 5% of the Claimant's gross annual salary, working out a daily rate (in this case £3.34) and multiplying it by the number of days in the period of loss (455 days²). This produces a figure of **£1,519.70**.

(iii) Loss of Statutory Rights

13. This sum was agreed between the parties as being **£500**.

(iv) Total Pecuniary Loss

14. The total compensatory award for the discriminatory dismissal is, therefore, £10,806.60 + £1,519.70 + £500, or **£12,826.30**.

(v) Interest

² This is a longer period than that used in relation to the loss of permanent health insurance as there was no suggestion that the PILON included a sum to represent the pension contributions that would have been made in the period of 28 days covered by the PILON. Note too that the Respondent used a period of 456 days but that seems to have been because the EDT was incorrectly treated as falling into the period of loss.

15. Interest is due under the **Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996**. In respect of this element of loss, the interest falls to be calculated from the mid-point date (between the EDT and 23 January 2026 that being the date of calculation within the meaning of **Reg 6(1)**). Applying the rate provided for in the **Judgments Act 1838, s. 17**, this produces an effective rate of 10.38%.
16. The interest due, therefore is £12,826.30 x 10.38% = **£1,331.37**.

(b) Injury to Feelings

16. The parties were a long way apart on the appropriate measure of injury to feelings. The Claimant contended that he should be awarded £255,893. The Respondent argued that the case fell into the bottom **Vento**³ band and should be set at £5,000.
16. The Tribunal took the view that the case fell within the second **Vento** band. It was a “more serious case”.
17. It was very clear to the Tribunal from the Claimant’s evidence that he was deeply affected by the dismissal. The process started with a meeting with Ms Askham at which we found that it was hinted to him that he should resign rather than undergo an investigation by the insurer or a capability process. His (accurate) impression from the outset was that Ms Askham did not believe he was unfit to work and thought he was pretending to be injured. That, understandably, significantly injured his feelings. However, he is not entitled to compensation for that injury because we found that the meeting was not a breach of the Act. We mention it because it helps to define that our task is to assess how much worse the injury was made by the dismissal.
18. Equally, there were aspects of the way in which the Claimant’s appeal against the cessation of his PHI payments was handled that we thought reflected very poorly on the Respondent. In particular, he was encouraged to appeal when the employer knew that without its approval, which it had withheld, the insurer could not reinstate the payments. However, the Claimant was entirely unaware that this had happened and his injury to feelings did not flow from it.
19. Ultimately, he was dismissed because he was unfit for work when it would have been possible to retain him in employment and allow him to continue to receive PHI payments had the Respondent gone back to the insurer and told them that the conclusion of the OH report the Respondent had commissioned and that the Respondent’s own view was now that the Claimant truly was unfit and therefore eligible to receive the payments. That is the wrong that must be compensated.
20. Mr Canning, appearing on behalf of the Respondent, very helpfully drew our attention to **Edie Stobart Limited v Graham** [2025] EAT 14 in which Judge Barry Clarke succinctly summarises the law on injury to feelings awards. We have taken into account the summary in its entirety, but we have had particularly in mind (in the particular circumstances of this case) the following passage:

“It is clear that, when quantifying the appropriate amount to award for injury to feelings, the tribunal must focus on the effect of the discriminatory act upon the particular claimant. The tribunal is required to compensate for the injury suffered,

³ *Vento v Chief Constable of West Yorkshire Police* [2003] ICR 318 EWCA

not the manner of the discrimination. As the band categorisation in Vento implicitly acknowledges, however, it is difficult to do this without reference to whether the discrimination causing the injury is more (or less) “serious”. (Paragraph 37 of the judgment)

21. The requirement to focus on the effect on the particular claimant means that those who are particularly vulnerable⁴ may well suffer injury that other, less sensitive, employees, might not.
22. Judge Clarke goes on to develop his thinking about the link between the seriousness of the wrongdoing by the employer and the injury suffered. He says:

“At its highest, the point can be put this way: the manner of discrimination is a tool by which the tribunal can properly draw an inference of secondary fact as to the injury suffered by a claimant when, as often happens in such cases, there is little else to go on.”
23. Judge Clarke then goes on to look at aspects of the manner of discrimination that might found an inference that the injury is more serious:
 - (1) The frequency and duration of the claimant’s exposure to the treatment;
 - (2) Whether the discrimination was “overt”;
 - (3) Whether the employee was exposed to ridicule; and
 - (4) Whether there was an asymmetry of power.

Mr Canning’s submissions were that with the possible exception of the last factor, the others were absent or minor. The wrongdoing was the dismissal which was a one-off action; the discrimination was not “overt”; and the Claimant was not exposed to ridicule.
24. As well-formed and persuasive as Mr Canning’s submissions were, we did not think they were of particular help in the present case because we had ample evidence before us from the Claimant himself as to the extent of his injury to feelings. There was no need to rely on the seriousness of the Respondent’s wrongdoing to draw an inference either that an injury had been occurred or as to its severity. This was not a case where there was, to use Judge Clarke’s phrase, “little else to go on”.
25. In cases where there is evidence of injury, the judgment suggests that it might be potentially “helpful” to consider a number of factors (whilst stressing that they are not a checklist):
 - (1) The Claimant’s description of their injury;
 - (2) Duration of the consequences;
 - (3) Effect on past, current and future work; and
 - (4) Effect on personal life or quality of life.
26. Throughout the liability hearing and again at the remedy hearing, the Claimant has been very clear that he has found the dismissal devastating. One particular factor he emphasised was the feeling that he had been let down by the very people who he believed

⁴ Whether generally or because the discriminatory act is part of a broader story of poor treatment - not all of which will necessarily have involved any breach of the Act -which has sensitised them.

ought to have supported him. He wanted the Respondent to help him and instead they sacked him. He says that it has had a significant ongoing impact. He told us:

“I try not to think about it, but it plays on my mind”.

He told us that he had been left feeling depressed and anxious. His written statement in support of his schedule of loss did not always distinguish between the impact of his disability and the impact of the dismissal.

27. Mr Canning urged us to adopt a degree of scepticism and emphasised that whilst the Claimant says that he turned to his doctor for help with depression, there was no medical evidence before us that would allow us to conclude that he had suffered a psychiatric injury. He also contended that the employment was bound to terminate in due course in any event. We did not think that a good point. There is no reason to think that someone dismissed rather than supported and denied the opportunity to recover whilst receiving PHI payments would suffer less injury to feelings simply because, at a future date, their disability might prevent their return to work.
28. As the Court of Appeal acknowledged in **Vento**, the assessment injury to feelings “presents special problems” as “subjective feelings ... are incapable of objective proof or of measurement in monetary terms”. The Tribunal’s view is that, taking the factors identified above into account, we consider that the injury suffered falls towards the lower end of the so-called “middle” **Vento** band. This is not a “less serious case”. The injury was real, intense and has had lasting effects. We do not think that an award in the lower band would fully compensate the Claimant. Nor would it secure respect for the policy of the anti-discrimination legislation (to invoke a factor identified in **Prison Service v Johnson** [1997] ICR 275 EAT). However, we did not think that this fell into the band of the most serious cases.
29. If the question had been how badly did we think the Respondent acted in the round; if we were free, in other words, to “[punish] the tortfeasor” (again to invoke the **Johnson** case) we would likely have made a more substantial award, but we have stuck to our proper task and focused solely on compensation.
30. Doing our best, we think the appropriate award is **£13,000**.
31. Again, interest is payable on the award but in relation to injury to feelings awards the appropriate period is from the date of dismissal until the date of calculation. The Respondent proposes and we accept that the effective rate of interest is 20.76%. That results in an interest payment of **£2,698.80**.

2. Compensation for Unfair Dismissal

32. Since we have made a compensatory award in respect of the dismissal in the discrimination claim, we do not make one under this head of claim. However, the parties are agreed that a basic award is payable and they are further agreed (and we accept) that appropriate sum is **£936.48**.

3. Grossing Up

33. Since, by our calculation, neither the compensatory award nor the injury to feelings award will fall to be taxed since, taken together they fall below the £30,000 threshold

applicable to payments falling within **ITEPA 2003, s. 401**, there is no requirement to gross up⁵.

Approved by:
Employment Judge Jones KC
27 February 2026

Sent to the parties on:
3 March 2026

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⁵ **ITEPA 2003, s. 403.**