



# EMPLOYMENT TRIBUNALS

Claimant: X

Respondent: Y

**UPON APPLICATION** made by the Respondent on 20 August 2025

**And UPON** the Judge having determined and given notice that the application should not be refused under r.70(2)

**And UPON** the Claimant complying promptly with directions issued on 13 October 2025 pursuant to rule 70(3)

**And UPON** the Respondent (based on material available to the Judge as at the date hereof) appearing not to have so complied but to hold no contrary position to that advanced by the Claimant

**AND UPON** the Judge determining that, in the interests of justice, a hearing is not necessary and compliance with r.70(5) should be waived.

## JUDGMENT

1. In the interests of justice, the Tribunal's remedy judgment of 8 July 2025 is varied LIMITED TO the substitution of the following paragraphs 4 and 5 in place of the original paragraphs 4 and 5:

4. *In respect of the previously upheld complaint of unfair dismissal, the Respondent is ordered to pay the Claimant the following:*

*(a) a basic award in the sum of £3283.27*

*(b) a compensatory award in the sum of £22, 764 (by operation of the statutory cap of 52 week's gross pay);and*

*(c) £500 for loss of statutory rights.*

5. *The recoupment regulations apply. The total monetary award for unfair dismissal is £26,547.27. The prescribed element is £17,593.26. The period to which that element is attributable is between 6 October 2023 (the expiry of the notice pay period) and 3 July 2025. The amount by which the monetary award for unfair dismissal exceeds the prescribed element is £8954.01.*

## REASONS

1. At the remedy hearing, neither side's representatives submitted to the Judge (and it was not independently heeded by her) the need to apply the statutory cap as prescribed under s.124 (1ZA) ERA 1996.
2. It is common ground that the statutory cap for this case is the lower of £118,223 and 52 x a week's gross pay of the Claimant. The latter figure is £437.77.
3. Written reasons have previously been provided in respect of the original remedy judgment of 8 July 2025.
4. Those reasons continue to underpin the varied judgement save that the application of the statutory cap alters the calculation of the financial award for unfair dismissal compensation as follows (underlining is new/ different material):

### Calculations of Unfair Dismissal Compensation

#### *Preliminary*

Employment Start date – 15.03.18; End date – 1.09.23;

5 years' service.

Aged 56 at Effective Date of Termination (EDT)

Gross monthly pay - £1897.00; Gross weekly pay - £437.77;

Net weekly pay - £376.48

Employer pension contributions per week - £9.53

#### *The basic award*

$1.5 \times 5 \times 437.74 = £3283.27$

#### *The compensatory award*

*Immediate loss of earnings (from the expiry of the notice period up to the Remedy Hearing)*

6.10.23 to 3.7.25 = 90 weeks

90 x 376.48 (net weekly wage) = £33, 883. 20 net wages  
90 x 9.53 (weekly pension) = £857.70 pension

**Total loss = £34, 740.90**

***Future loss of earnings***

The Tribunal made no award for loss of future earnings.

***Deductions***

There were no deductions for mitigation earnings or Polkey

***Increase/reduction under s.124 A (Acas Code)***

0.25 x £34, 740.90 = £8685.20

**Subtotal for compensatory award = £43, 426.13**

**Application of the statutory cap being the greater of 52 x £437.77  
(£22, 764) or £118, 223**

**= £22, 764.**

**Loss of statutory rights**

It would be just and equitable to award **£500.00** for loss of statutory rights, to reflect the five years continuous employment the Claimant had with the Respondent.

**Recoupment**

The Employment Protection (Recoupment for Jobseeker's Allowance and Income Support) Regulations 1996 take effect because the Claimant claimed Universal Credit. Jobcentre Plus will inform the Respondent of how much it must deduct from the compensatory award in order to reimburse the state for benefits paid. The balance will then be paid to the Claimant.

Only the loss of wages element of the compensatory award forms the prescribed element for recoupment purposes (i.e. pension contributions must be excluded)

Loss of wages = **£33, 883. 20**

**Adjustment of the Prescribed Element**

**The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996**

**4. Duties of the industrial tribunals and of the Secretary of the Tribunals in respect of monetary awards**

...

*(2) Where the industrial tribunal in arriving at a monetary award makes a reduction on account of the employee's contributory fault or on account of any limit imposed by or under the 1992 Act or 1996 Act, a proportionate reduction shall be made in arriving at the amount of the prescribed element.*

Resulting reduction from application of statutory cap, expressed as a % = 48%

(i.e. £43, 426.13 - £22, 764 = £20, 662.12

£20,662.12/ £43, 426.13 = 0.475)

**Prescribed element (£33, 833.20) as reduced by 48% = £17, 593.26**

*Summary*

The Prescribed Element is £17,593.26

The total monetary award for the complaint of unfair dismissal is £26, 547.27 ( £3283.27 + £22, 764 + £500). The excess of total monetary award over the prescribed element is: **£8954.01**

The Prescribed Period is 6 October 2023 to 3 July 2025.

Approved by Tribunal Judge Miller-Varey  
acting as an Employment Judge

11 February 2026

JUDGMENT SENT TO THE PARTIES ON

18 March 2026

FOR THE TRIBUNAL OFFICE