



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Mitchell

**Respondent:** Acorns Care Centre Ltd

**HELD AT:** Manchester

**ON:** 11 October 2018

**BEFORE:** Employment Judge Tom Ryan

**Appearances:**

**Claimant:** In person (assisted by Mr R Owojuri, friend)

**Respondent:** No attendance

## JUDGMENT

The respondent having failed to comply with the requirement of rule 16 of the Employment Tribunal Rules of Procedure 2013 to present a response the judgment of the tribunal is that:

1. The title of the respondent is amended as shown above.
2. The claimant's application to extend time to enable the tribunal to consider his complaints is granted.
3. The claimant's complaints of unfair dismissal, breach of contract and unauthorised deductions from wages in respect of holiday pay are well-founded.
4. The respondent is ordered to pay the claimant compensation for unfair dismissal calculated as follows:

Basic Award

2 years' service x 1.5 x £213.67 (gross) £641.01

Compensatory Award

Loss of earnings to date of hearing:

42.2 weeks x £219.71 (net) £9,271.76

Less sums earned in alternative employment £1,365.00 -

£7,906.76

Loss of statutory employment rights	<u>£450.00</u>	
		<u>£7,786.76</u>
Total award for unfair dismissal		£8,997.76

5. For the purposes of regulation 4 of the Employment Protection (Recoupment of Benefits) Regulations 1996 the tribunal states:

Monetary award grand total: £8,997.76

Prescribed element: £7,906.76

Period to which prescribed element is attributable: 20 December 2017 to 11 October 2018

Excess of total monetary award over prescribed element: £1,091.00

6. The claimant was entitled to 2 weeks' notice of dismissal. The tribunal makes no separate award for compensation for breach of contract. Compensation for that period is comprised within the award for unfair dismissal.
7. The respondent is also ordered to pay the claimant compensation for making unauthorised deductions from wages by failing to pay holiday pay in the sum of £456.78. That sum has been calculated gross and may be taxable in the hands of the claimant.
8. The claimant's complaints of discrimination and victimisation are dismissed upon withdrawal.
9. The respondent is ordered to pay the sums awarded by way of compensation to the claimant on or before 26 October 2018.

---

Employment Judge

11 October 2018

JUDGMENT SENT TO THE PARTIES ON  
23 October 2018

FOR THE TRIBUNAL OFFICE



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2410096/2018**

Name of **Mr D Mitchell** v **Acorns Care Centre Ltd**  
case(s):

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:

"the relevant decision day" is: **23 October 2018**

"the calculation day" is: **24 October 2018**

"the stipulated rate of interest" is: **8%**

MR I STOCKTON  
For the Employment Tribunal Office

## INTEREST ON TRIBUNAL AWARDS

### **GUIDANCE NOTE**

1. This guidance note should be read in conjunction with the booklet, 'The Judgment' which can be found on our website at [www.gov.uk/government/collections/employment-tribunal-forms](http://www.gov.uk/government/collections/employment-tribunal-forms)

If you do not have access to the internet, paper copies can be obtained by telephoning the tribunal office dealing with the claim.

2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding sums representing costs or expenses) if they remain wholly or partly unpaid more than 14 days after the date on which the Tribunal's judgment is recorded as having been sent to the parties, which is known as "the relevant decision day".

3. The date from which interest starts to accrue is the day immediately following the relevant decision day and is called "the calculation day". The dates of both the relevant decision day and the calculation day that apply in your case are recorded on the Notice attached to the judgment. If you have received a judgment and subsequently request reasons (see 'The Judgment' booklet) the date of the relevant judgment day will remain unchanged.

4. "Interest" means simple interest accruing from day to day on such part of the sum of money awarded by the tribunal for the time being remaining unpaid. Interest does not accrue on deductions such as Tax and/or National Insurance Contributions that are to be paid to the appropriate authorities. Neither does interest accrue on any sums which the Secretary of State has claimed in a recoupment notice (see 'The Judgment' booklet).

5. Where the sum awarded is varied upon a review of the judgment by the Employment Tribunal or upon appeal to the Employment Appeal Tribunal or a higher appellate court, then interest will accrue in the same way (from "the calculation day"), but on the award as varied by the higher court and not on the sum originally awarded by the Tribunal.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.

**Claimant**                    **Mr D Mitchell**  
**Respondent**                **Acorns Care Centre Ltd**

**ANNEX TO THE JUDGMENT  
(MONETARY AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

**The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.**

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.