



EMPLOYMENT TRIBUNALS

Claimant: Mr S Kirk

Respondent: Tesco Stores Ltd

Heard at: Manchester Employment Tribunal

On: 15, 16, 17 March 2021

Before: Employment Judge Dunlop
Ms A Jackson
Ms S Moores-Gould

Representation

Claimant: In person

Respondent: Ms K Hosking (Counsel)

JUDGMENT

This has been a hybrid hearing. The parties attended the hearing in person. The two non-legal members attended the hearing by videolink using the tribunal's Cloud Video Platform (CVP). A fully attended hearing was not held because it was not practicable in the circumstances of the covid-19 pandemic and all issues could be fairly determined in a hybrid hearing in the form described.

1. The claimant's claim that his dismissal was an act of discrimination arising from disability under s15 Equality Act 2010 succeeds.
2. The claimant's claim of failure to make reasonable adjustments under s20-22 Equality Act 2010 succeeds in part, specifically:
 - 2.1 The respondent concedes that it failed to make reasonable adjustments by failing to send five documents to the claimant in the correct format after 31st March 2019. The Tribunal finds, in addition, that it made a similar failure in respect of two additional documents sent between 2nd and 30th March 2019.
 - 2.2 The claimant's reasonable adjustments claim in respect of lighting levels in meeting rooms fails.
 - 2.3 The claimant's reasonable adjustments claim in respect of having an HR representative present in meetings fails.

- 2.4 The claimant's reasonable adjustments claim in respect of the cost of taxis to and from absence meetings fails.
3. The claimant's claim of harassment contrary to s26 of the Equality Act 2010 succeeds in part, specifically:
- 3.1 Mr Richardson's comments made in a telephone conversation around 8/9 May 2019 do not amount to harassment on the grounds of disability.
- 3.2 Ms Taylor asked questions relating to the claimant's gym attendance and gaming activities at the meeting on 2 March 2019. Her actions in asking those questions amount to harassment on the grounds of disability.
4. The claimant's claim of victimisation contrary to s27 Equality Act 2010 fails and is dismissed.
5. The claimant's claim of indirect discrimination contrary to s 19 Equality Act 2010 fails and is dismissed.
6. In respect of the successful claims, the respondent is ordered to pay the claimant the sum of **£16,153.88** calculated as follows:
- 6.1 An award of £12,000.00 for injury to feelings damages.
- 6.2 An uplift of £1,800.00 under s207A Trade Union and Labour Relations (Consolidation) Act 1992 (calculated as a 20% uplift applied to only £9,000 of the award for injury to feelings).
- 6.3 Interest of £2,117.26 in respect of the award for injury to feelings (calculated by applying an 8% interest rate for the period 17 April 2019 to 17 March 2021)
- 6.4 Financial losses arising from the claim under s.15 Equality Act 2010 in the agreed sum of £220.80.
- 6.5 Interest of £15.82 in respect of the financial losses (calculated by applying an 8% interest rate from the midpoint of the period between 1 June 2019 and 17 March 2021).
7. The Employment Protection (Recoupment of Job Seeker's Allowance and Income Support) Regulations 1996 do not apply to this award.

Employment Judge Dunlop

Date: 19 March 2021

23 March 2021

FOR EMPLOYMENT TRIBUNALS

Note

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 shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: 2406458/19
Mr S Kirk v Tesco Stores Ltd

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:

"the calculation day" is:

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

MR S ARTINGSTALL
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

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.