



**EMPLOYMENT TRIBUNALS**

**BETWEEN**

**Claimant**

**Respondent**

**AND**

**Mr R.CARTWRIGHT**

**STAN SMITH AND SONS LTD**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

**HELD AT:** Birmingham via CVP

**ON:** 12 &13 September 2022

**EMPLOYMENT JUDGE** Algazy KC

**PANEL:**

Mr P. Talbot

Ms D. Hill

**Representation**

**For the Claimant:** Mr D.Renton - Counsel

**For the Respondent:** Mr M. Haywood - Counsel

# **JUDGMENT**

The unanimous judgment of the Tribunal is that:

1. The respondent's application to admit the witness statement of Daniel Jackson as hearsay evidence is refused.
2. The response is struck out pursuant to rule 37(1)(b) and (e).
3. The claimant was unfairly dismissed.
4. The claimant is awarded, and the respondent is ordered to pay, a basic award in the sum of £14,575.00.
5. The claimant is awarded, and the respondent is ordered to pay a compensatory award of £21,815 comprising:
  - Loss of income - £20,700
  - Pension loss - £615
  - Loss of statutory rights - £500
6. The claimant is entitled to a redundancy payment in the sum of £14,575.00; such sum to be set off against the compensatory award
7. The claimant is entitled to Notice pay of £4,968.00; such sum to be set off against the compensatory award.
8. The remaining discrimination claims are dismissed on withdrawal by the claimant.
9. The claimant's application for costs is refused.

Oral reasons having been given, the parties are reminded of Rule 62(3) of Schedule 1 of the 2013 Rules regarding written reasons not being produced unless requested and/or subsequently requested in accordance with Rule 62(3).

If they are requested, the parties are reminded that they will appear on the Employment Tribunal website - <https://www.gov.uk/employment-tribunal-decisions>.

Signed by **Jacques Algazy K.C.**  
on 13 September 2022

**Claimant**

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**and**

**R.CARTWRIGHT**

**STAN SMITH &  
SONS LIMITED**

**ANNEX TO THE JUDGMENT OF THE TRIBUNAL**

Statement Relating to the Recoupment of Unemployment, etc. Benefit

1. The following particulars are given pursuant to the Employment Protection (Recoupment of Job Seeker's Allowance and Income Support) Regulations 1996, SI 1996 No. 2349.
  - (a) Monetary award: **£36,390.00**
  - (b) Prescribed element: **£20,700**
  - (c) Period to which (a) relates: **14 October 2020 to 4 October 2021**
  - (d) Excess of (a) over (b): **£15690**

The Claimant(s) may not be entitled to the whole monetary award. Only (d) is payable forthwith; (b) is the amount awarded for loss of earnings during the period under (c) without any allowance for unemployment benefit or supplementary benefit received by the Claimant in respect of that period; (b) is not payable until the Department of Employment has served a notice (called a recoupment notice) on the respondent(s) to pay the whole or a part of (b) to the Department (which it may do in order to obtain repayment of unemployment or social security benefit paid to the Claimant(s) in respect of that period) or informs the respondent(s) in writing that no such notice will be served. The sum named in the recoupment notice, which will not exceed (b), will be payable to the Department. The balance of (b), or the whole of it if notice is given that no recoupment notice will be served, is then payable to the Claimant(s).

2. The Recoupment Notice must be served within the period of 21 days after the conclusion of the hearing or 9 days after the decision is sent to the parties, (whichever is the later), or as soon as practicable thereafter, when the decision is given orally at the hearing. When the decision is reserved the notice must be sent within a period of 21 days after the date on which the decision is sent to the parties, or as soon as practicable thereafter.

3. The Claimant(s) will receive a copy of the recoupment notice and should inform the Department of Employment in writing within 21 days if the amount claimed is disputed. The tribunal cannot decide that question and the respondent(s), after paying the amount under (d) and the balance (if any) under (b), will have no further liability to the Claimant(s), but the sum claimed in a recoupment notice is due from the respondent(s) as a debt to the Department whatever may have been paid to the Claimant(s) and regardless of any dispute between the Claimant(s) and the Department.