



EMPLOYMENT TRIBUNALS

Claimant: Mr S Kassama

Respondent: Cherish Children's Care Limited

HELD AT: Manchester

ON: 21-24 October 2024

BEFORE: Employment Judge Slater
Ms A Jackson
Mr J Murdie

REPRESENTATION:

Claimant: In person

Respondent: Mrs G Watson, Head of People

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The Tribunal does not have jurisdiction to deal with the race discrimination complaints relating to the handling of the first grievance (part of 10.2.1 in the list of issues), the complaint in 10.2.2 about the use of the "n" word by a manager in 2017, or 10.2.3 or 10.2.4.
2. The complaint of direct race discrimination relating to the handling of the second grievance (part of 10.2.1) is not well founded.
3. The complaint of direct race discrimination about the stereotypes' conversation in late November 2019 (part of 10.2.2) is well founded.
4. The complaint of constructive unfair dismissal is well founded.
5. The respondent was in breach of contract by not paying the claimant for the full amount of pay to which he was entitled during his 2 weeks on garden leave.

6. The respondent is ordered to pay to the claimant compensation of £9659 for unfair dismissal.
7. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply to this award for unfair dismissal. The grand total of the award is £9659. The prescribed element is £8709. The period of the prescribed element is 12 February 2020 to 20 November 2020. The excess of the grand total over the prescribed element is £950. The annex to this judgment explains the operation of the Recoupment Regulations.
8. The respondent is ordered to pay to the claimant compensation of £5000 plus interest of £1966 for direct race discrimination.
9. The respondent is ordered to pay to the claimant damages of £535.56 gross for breach of contract.

Employment Judge Slater

Date: 24 October 2024

JUDGMENT SENT TO THE PARTIES ON

29 October 2024

FOR THE TRIBUNAL OFFICE

Notes

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.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

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**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.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2402642/2020**

Name of case: **Mr S Kassama** v **Cherish Children's Care Limited**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 29 October 2024

the calculation day in this case is: 30 October 2024

the stipulated rate of interest is: **8% per annum**.

For the Employment Tribunal Office