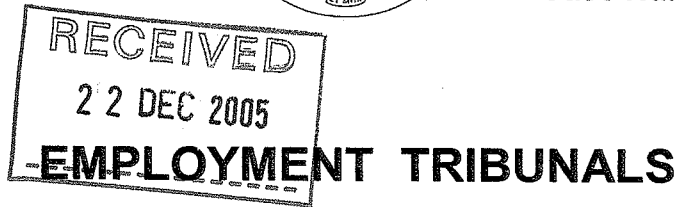




Case Number: 1101320/2005

BW



BETWEEN

Claimant

Respondent

Mr John Michael Skinner

George Wilson Construction Ltd

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: Ashford, Kent ON: 15 December 2005
CHAIRMAN: Mr A Freer MEMBERS: Mr T Craig
Mr M B Nancollas

Appearances:

For Claimant: Mr A Bertin, Solicitor

For Respondent: Mr George Wilson, Managing Director

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The correct Respondent is George Wilson Construction Limited.
2. The Claimant's claim of unfair dismissal is well-founded.
3. It is just and equitable to reduce the amount of the basic award and compensatory award by 10% having regard to the Claimant's contribution towards his dismissal and pursuant to sections 122(2) and 123(6) of the Employment Rights Act 1996.
4. It is just and equitable to increase the compensatory award by 50% having regard to the Respondent's non-compliance with the statutory dismissal and disciplinary procedures pursuant to section 31 of the Employment Act 2002 and section 124A of the Employment Rights Act 1996.

5. The Respondent shall pay to the Claimant compensation in the sum of £14,353.88 comprising a basic award of £1,512 and a compensatory award of £12,841.88.
6. Of the monetary award of £14,353.88, the amount of the prescribed element is £9,213.75 relating to the dates of 6 September 2005 to 15 December 2005 inclusive. The monetary award exceeds the prescribed element by £5,140.13.

.....
Chairman

19 December 2005

JUDGMENT SENT TO THE PARTIES ON

20 DECEMBER 2005

.....
AND ENTERED IN THE REGISTER

.....
FOR SECRETARY OF THE TRIBUNALS



Case Number: 1101320/2005

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 1101320/2005

Name of case(s): Mr John Skinner v George Wilson Construction Ltd

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding discrimination or equal pay awards or sums representing costs or expenses), shall carry interest where the sum remains unpaid on a day ("*the calculation day*") 42 days after the day ("*the relevant judgment day*") that the document containing the Tribunal's judgment is recorded as having been sent to the parties. The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant judgment 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 judgment day" is: 20.12.05
"the calculation day" is: 31.01.06
"the stipulated rate of interest" is: 8% per annum

For and on behalf of the Secretary of the Tribunals

INTEREST ON TRIBUNAL AWARDS

GUIDANCE NOTE

1. This guidance note should be read in conjunction with the booklet entitled 'The Judgment', which you received with your copy of the Tribunal's judgment.
2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding discrimination or equal pay awards* or sums representing costs or expenses) if they remain wholly or partly unpaid after 42 days.
3. The 42 days run from the date on which the Tribunal's judgment is recorded as having been sent to the parties and is known as "the relevant judgment day". The date from which interest starts to accrue is the day immediately following the expiry of the 42 days period 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 decision. If you subsequently request written reasons, 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.
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 booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.

* The Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 prescribes the provisions for interest on awards made in discrimination and equal pay cases.

Claimant

Mr John Michael Skinner

Respondent

George Wilson Construction Limited

ANNEX TO THE JUDGMENT

Recoupment of Jobseeker's Allowance and Income Support

The Tribunal has awarded compensation to the Claimant but not all of it should be paid immediately. This is because the Department for Work and Pensions (DWP) has the right to recover (recoup) any Jobseeker's Allowance or Income Support which it 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 should state the total monetary award made to the Claimant and an amount called 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 DWP sends the Recoupment Notice, the Respondent must pay the amount specified in the Notice to the Department. 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 Department informs the Respondent that it does not intend 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 DWP. If the Claimant disputes the amount in the Recoupment Notice, the Claimant must inform the DWP in writing within 21 days. The Tribunal has no power to resolve such disputes which must be resolved directly between the Claimant and the DWP.