



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Mellor

**Respondent:** Lunar Automotive Limited

**Heard at:** Manchester

**On:** 4 May 2022

**Before:** Employment Judge Phil Allen

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Did not attend and was not represented

# JUDGMENT

The judgment of the Tribunal is that:

1. The claimant was constructively dismissed without notice in breach of contract. The respondent is ordered to pay the claimant damages arising from the breach of contract (notice) of the gross sum of **£68,029.18**.
2. The respondent made unauthorised deductions from the claimant's wages and is ordered to pay the claimant the gross sum of **£27,223.01**.
3. The respondent has failed to pay the claimant's holiday entitlement and is ordered to pay the claimant the sum of **£1,638.12**.
4. The respondent has breached the claimant's contract of employment by failing to reimburse him for fuel expenses as required and is ordered to pay the claimant damages arising from the breach of **£1,359.34**.
5. The respondent has breached the claimant's contract of employment by failing to pay to a pension scheme the sums which would have been employee workplace pension contributions and is ordered to pay the claimant damages arising from the breach of **£3,130.45**.
6. The respondent has breached the claimant's contract of employment by failing to pay to pension schemes the sums which should have been employer pension contributions and is ordered to pay the claimant damages arising from the breach of **£6,260.77**.

7. The claimant was constructively dismissed by the respondent. The constructive dismissal was unfair. The unfair dismissal claim succeeds.

8. The respondent is required to pay the claimant a basic award for unfair dismissal of **£8,887**.

9. The respondent is required to pay the claimant a compensatory award as compensation for unfair dismissal of **£51,553.97**.

10. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 applies to the unfair dismissal compensatory award. The prescribed period is 15 June 2021 to 15 March 2022. The prescribed element is £51,028.97. The total award for all claims is £168,081.84. The amount over the prescribed element is £117,052.87.

## NOTE

1. The respondent will not be required to make any payment of the prescribed element of the award until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State will normally serve such recoupment notice or notification on the employer within 21 days after the Tribunal's Judgment was sent to the parties.

2. The prescribed element is £51,028.97. The prescribed period is 15 June 2021 to 15 March 2022. The total award is £168,081.84. The amount over the prescribed element is £117,052.87. That latter amount, which is the difference between the total monetary award and the prescribed element is payable by the respondent to the claimant immediately.

Employment Judge Phil Allen  
4 May 2022

RESERVED JUDGMENT AND REASONS  
SENT TO THE PARTIES ON  
10 May 2022

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.

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://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: **2415758/2020**

Name of case: **Mr D Mellor** v **Lunar Automotive Limited**

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 judgment day" is: 10 May 2022

"the calculation day" is: 11 May 2022

"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/publications/employment-tribunal-hearings-judgment-guide-t426](http://www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426)

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.

**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.