



EMPLOYMENT TRIBUNALS

Claimant: Mr D Howlett

Respondent: Broadway Pubs and Leisure Group Ltd

Heard at: North Shields **On:** 2nd Nov. 2918

Before: Employment Judge Johnson

Representation:

Claimant: In person
Respondent: No attendance

JUDGMENT

1. The claimant's complaint of unauthorised deduction from wages (failure to pay accrued holiday pay) is well founded and succeeds. The respondent is ordered to pay to the claimant the sum of £700 in respect of accrued holiday pay. This is a net amount and the respondent shall be responsible for the payment of any income tax and national insurance contributions thereon.
2. Pursuant to Section 38 of the Employment Act 2002, the Tribunal being satisfied that the respondent had failed to provide the claimant with a written statement of his terms and conditions of employment, the respondent is ordered to pay to the claimant compensation at the rate of two week's pay in the sum of £700 due to its failure to provide a written statement of terms and conditions of employment.

ORDER

(made pursuant to the Tribunal Rules 2013)

1. I order that the name of the respondent be changed from Stirks Steakhouse Bar and Grill to Broadway Pubs and Leisure Group Ltd, without the need for re-service.

REASONS

1. This matter came before me this morning for consideration of the claimant's complaints of unauthorised deduction from wages, namely that his employer had failed to pay him his accrued holiday pay. The claimant further alleged that he had never been provided with any written terms and conditions of employment or itemised pay slips.
2. The claim form was presented on 6 August 2018 and named as the respondent employer, "Stirks Steakhouse Bar and Grill" of 30a Wavendon Crescent, Sunderland SR4 8LW. The claim form was served at that address but no response was presented within the time limit of 28 days, which expired on 4 October 2018.
3. A response form was subsequently presented on 22 October 2018 on which the name of the respondent appears as "Wavendon Pub Company" of 30a Wavendon Crescent, Sunderland SR4 8LW. That response form was rejected as it was presented out of time and there had been no request for an extension of time.
4. The claimant today appeared in person. No one attended for or on behalf of the respondent.
5. Mr Howlett confirmed to me that he worked as the Head Waiter at premises which traded as "Stirks Steakhouse Bar and Grill" from 30a Wavendon Crescent in Sunderland. Mr Howlett explained that he understood the business to be owned and operated by two gentlemen named John Stirk and Richard Cooney. I informed Mr Howlett that searches made at Companies House revealed that there were two limited companies which appeared to be connected with this business. The first is Broadway Pubs and Leisure Group Ltd, whose registered office is 30a Wavendon Crescent in Sunderland. The second is the Wavendon Pub Company Ltd, whose registered office is at the Belmont, Muir End Terrace, Durham DH1 1BJ.
6. I asked Mr Howlett to explain which of the two individuals or two limited companies was more likely to have been his employer. Because he always worked from the premises at 30a Wavendon Crescent in Sunderland, Mr Howlett was of the opinion that his employer was more likely to have been Broadway Pubs and Leisure Group Ltd.
7. Mr Howlett confirmed that he had never received a written statement of terms and conditions of employment, nor had he received any documentation which may enable him to properly identify the correct identity of his employer. However, Mr Howlett was of the opinion that it was most likely to be Broadway Pubs and Leisure Group Ltd.
8. On the material available to me, I am satisfied that the claimant was probably employed by Broadway Pubs and Leisure Group Ltd. I therefore order that the title to these proceedings be amended to show the correct

name of the respondent as Broadway Pubs and Leisure Group Ltd and that the address for that company be amended to 30a Wavendon Crescent, Sunderland, United Kingdom SR4 8LW. I am satisfied that these proceedings are properly being brought to the attention of the offices of that company and I therefore order that there be no need for re-service of any papers or documents.

9. I am satisfied that the claimant is entitled to be paid the sum of £700 for accrued holiday pay and I order the respondent to pay that sum to him. That sum is to be paid net and the respondent shall be responsible for the payment of any income tax and national insurance contributions thereon.
10. The claimant having succeeded in a complaint of unauthorised deduction from wages, I am satisfied that it is just and equitable in this case to order the respondent to pay the claimant a further sum by way of compensation at the rate of 2 week's pay in the sum of £700 for the failure to provide a written statement of terms and conditions of employment.

CONSEQUENCES OF NON-COMPLIANCE

1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
2. The Tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice or hold a preliminary hearing or a hearing.
3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

Employment Judge Johnson

Date 12 November 2018

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.



Case No: 2501522/2018

NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2501522/2018**

Name of case(s): **Mr D Howlett** v **Broadway Pubs and Leisure Group 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: **13 November 2018**

"the calculation day" is: **14 November 2018**

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

MISS K FEATHERSTONE
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.