



THE EMPLOYMENT TRIBUNALS

Claimant
Ms Shavonne Johnson

Respondent
Mr Greenwood t/a “ The Dolphin”

AT NORTH SHIELDS
EMPLOYMENT JUDGE GARNON

ON 1 March 2019

JUDGMENT (Liability and Remedy) **Employment Tribunals Rules of Procedure 2013 –Rule 21**

1. The name of the respondent is amended to that shown above.
2. The claim of unlawful deduction of wages is well founded. I order the respondent to repay £ 344.52 gross of tax and National Insurance (NI) .
3. The claim for compensation for untaken annual leave is well founded. I order the respondent to pay compensation of £ 344.52 gross of tax and NI.
4. The claim of breach of contract is well founded. I order the respondent to pay damages of £ 602.91 on which no tax is payable.
5. The claimant is entitled to a redundancy payment payable by the respondent of £602.91
6. The total payable under this judgment is £1894.86. The Hearing listed for 29 March 2019 is vacated.

REASONS

1. The claims were presented on 21 December 2018 against “Mr Greenwood” but the text of the claim makes clear he was trading as a public house called “The Dolphin”. The claim was served by post to the trading address of the respondent on 30 January 2019 and has not been returned as undelivered in the postal system.
2. The response was due by 27 February 2019 but none was received. I am required by Rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and, if so, obliged to issue a judgment which may determine liability and remedy. I have in the claim form sufficient to enable me to find the claims proved on balance of probability and determine the sums to be awarded. I would not normally issue a judgment against a respondent described only by his surname, so must explain why no other course is practicable.
3. The claimant started work at The Dolphin on 3 April 2011. On 2 May 2018 the then proprietor died. His brother kept the pub trading until 4 June when it was taken over by a couple who ran it for 16 weeks then told the claimant on 28 September another owner

would be taking over and her employment would transfer to him by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The pub was to be closed for a short time for refurbishment and due to reopen on 20 October 2018. The claimant then tried to contact the new owner on several occasions without success so posted a letter through the door of the pub with her name and number. The next day she received a text from Mr Greenwood informing her the pub no longer needed staff.

4. The claimant was born on 1 January 1987. Her week's pay was £86.13 gross which is 11 hours at the National Minimum Wage. Her net pay was the same.

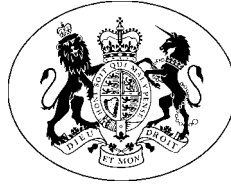
5. The law relating to unlawful deduction of wages is in Part 2 of the Employment Rights Act 1996 (the Act) , that relating to redundancy payments is in Part 11 and that relating to compensation for untaken annual leave in the Working Time Regulations 1998 (WTR). At common law, a contract of employment may be brought to an end only by reasonable notice. Statutory minimum periods of notice are set out in s 86 of the Act .

6. This dismissal is a perfect example of a redundancy following a relevant transfer under TUPE so the new owner is liable to pay. The claimant engaged in Early Conciliation through ACAS which lasted its full four weeks, which strongly suggests ACAS made contact with Mr Greenwood, or tried to. I am satisfied he has received the claim and chosen not to respond. No other course I take would enable the claimant to give the Tribunal better information as to his forenames..

TM Garnon Employment Judge

Date signed 1st March 2019

SENT TO THE PARTIES ON



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2503601/2018**

Name of case(s): **Mrs S Johnson** v **Mr Greenwood**

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: **4 March 2019**

"the calculation day" is: **5 March 2019**

"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/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.