



EMPLOYMENT TRIBUNALS

Claimant: Mr P Obal

Respondent: M J Lodges Limited

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

THE TIME for presenting a response having expired and no valid response having been presented, it is the judgment of the Tribunal that:

1. The claimant was dismissed without notice, and is entitled to one week's notice pay, as damages for breach of contract. His gross weekly pay was £630.00, £493.45 net.

1 x £493.45 £493.45

This is a net sum, and the respondent should account for tax and national insurance (if any) due upon it.

2. The claimant was unfairly dismissed for having asserted a statutory right. He had one complete year's service, over the age of 41, and is entitled to a basic award of 1.5 week's pay, capped at £508 :

1.5 x £508 £762.00

The claimant is entitled to a compensatory award. He was out of work for three weeks, two weeks after the notice period for which he has been awarded one week's pay.

2 x £493.45 £986.90

The claimant then obtained alternative employment, at a reduced net weekly wage of £345.55, occasioning a partial loss of £147.90 per week net.

The claimant has sought loss of earnings for a further period of 26 weeks. That would include an element of future loss. The Tribunal has to take into account the vicissitudes of employment, and having regard to the facts that:

The respondent company is not long established

The claimant had only worked for it for 18 months

The claimant had difficulty in obtaining payment of his wages as due

There has been a proposal to strike off the company, which is overdue in filing its accounts at Companies House

the Tribunal considers that it would be just and equitable to award the claimant a further period of 12 weeks' partial loss of earnings:

12 weeks x £147.90 £1,774.80

The total compensatory award is thus: £2761.70

The recoupment regulations do not apply.

3. The respondent has made unauthorised deductions from the claimant's wages. His hourly rate was £14.00, and he has not been paid for 97.5 hours worked, between 22 October and 6 November 2018 , a total of £1,365.00, gross , £1,069.14 net which sum the respondent is ordered to pay the claimant, and to account to HMRC for the appropriate deductions for tax and national insurance.

4. The claimant's complaint of failure to pay to the claimant an amount due to the claimant under regulation 14 (2) or regulation 16 (1) of the Working Time Regulations 1998 is well-founded and the respondent shall pay to the claimant the sum of £907.95 in respect of 9.2 days untaken but accrued holiday (holiday pay) at the rate of £14.00 per hour, based on a 9 hour day.

9.2 x 9 x £14 = £1159.20 gross, net: £907.95

This is a net sum, and the respondent should account to HMRC for tax and national insurance (if any) due upon it.

5. Additional award pursuant to s.38 of the Employment Act 2002 for failure to provide written particulars of employment:

The claimant is entitled to an additional award, the respondent not having complied with s.1 of the Employment Rights Act 1996 , and has sought the lesser amount of 2 weeks pay, which the Tribunal awards. His schedule of loss, however, has based this on his net

earnings, whereas , it is his gross earnings, capped at £508 per week which form the basis of the award.

2 x £508.00

£1,016.00

6 . The Hearing on 22 May 2019 is vacated .

EMPLOYMENT JUDGE HOLMES

DATED : 19 March 2019

JUDGMENT SENT TO THE PARTIES ON

1st April 2019

AND ENTERED IN THE REGISTER

FOR SECRETARY OF THE TRIBUNALS



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2401522/2019

Name of Mr P Obal v MJ Lodges Limited case(s):

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: 1 April 2019

"the calculation day" is: 2 April 2019

"the stipulated rate of interest" is: 8%

MR J HANSON
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-guidet426

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.