



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs J Garstang

**Respondent:** Smooth Gym Limited

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

The respondent having stated in its response that it did only disputed the claimant's holiday pay claim , it is the judgment of the tribunal that:

1. The claimant's claim for a redundancy payment is well – founded and succeeds. The claimant was employed from 31 March 2008 until she was dismissed on 31 October 2018, at age 51. Her weekly gross wage was £234.90. The claimant's redundancy entitlement is accordingly:

15 x £234.90

**£3523.50**

which sum the respondent is ordered to pay her.

2. The claimant's complaint of unauthorised deduction from wages is well-founded and succeeds. The respondent unlawfully deducted payments due to the claimant for the last 6 weeks of her employment, 180hours at the rate of £7.83 per hour in the sum of **£1409.40** , gross. The respondent is ordered to pay the claimant the said sum of **£1409.40** This is a gross sum, and the respondent shall account to HMRC for the appropriate deductions for tax and national insurance.
3. The claimant's complaint of breach of contract is well-founded and succeeds. The claimant is entitled to 10 week's notice, at £234.90 per week, a total of **£2394.00**, gross. The respondent is ordered to pay that sum to her , and shall account to HMRC for the appropriate deductions for tax and national insurance.
4. The respondent agrees, and the claimant will accept that she has an entitlement to holiday pay, 10 hours, at the hourly rate of £7.83 , in respect of untaken but accrued holiday (holiday pay), a total of **£78.30** , which sum the respondent is ordered to pay

her. This is a gross amount and the respondent shall be responsible for accounting to HMRC for the appropriate deductions for income tax and employee's national insurance relating to it.

5. No further hearing will be listed. Whilst the respondent's Director did, on 28 January 2019, request a delay "whilst the company contacts the administrators", searches with Companies House reveal that the respondent company is not in Administration, and there is thus no reason why this judgment should not be issued.

Employment Judge Holmes

Dated: 1 February 2019

JUDGMENT SENT TO THE PARTIES ON

9 February 2019

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

**Public access to employment tribunal decisions**

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(s): **2417194/2018**

Name of **Mrs J Garstang** v **Smooth Gym Ltd**  
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: **9 February 2019**

"the calculation day" is: **10 February 2019**

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

MR I STOCKTON  
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.