



EMPLOYMENT TRIBUNALS

Claimants: Mr D Gibbons and others (see schedule)

Respondent: Lunar Automotives Limited

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21 and Rule 60

Judgments having already been issued for some of the claims brought by some of these claimants, upon the claimants having provided further information, judgment is given in relation to some or all of their remaining claims on the basis of no response having been presented or on the basis of admissions in the response, as follows:

Mr S Ashby

1. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on 6 days (10 April 2020, 13 April 2020, 8 May 2020, 25 May 2020, 31 August 2020 and 1 November 2020). The respondent is ordered to pay damages to the claimant in the sum of £90.23. This is a net sum but is based on the claimant's gross pay because no net figure has been provided and the difference between the gross and net sum is likely to be very small, if any.

Note on amount of damages: no figure was provided by the claimant for the amount of damages claimed, but 10 days' holiday at 100% full pay was stated to be £751.92, so one day's full pay was £75.19. £90.23 is 20% of 6 x £75.19.

Mr L Conroy-Phillips

2. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on 7 days in the period from 10 April 2020 until termination of employment. The respondent is ordered to pay damages to the claimant in the sum of £128.31. This is a net sum but is based on the claimant's gross pay because no

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net figure has been provided and the difference between the gross and net sum is likely to be very small, if any.

Note on amount of damages: no figure was provided by the claimant for the amount of damages claimed, but 10 days' holiday at 100% full pay was stated to be £916.50, so one day's full pay was £91.65. £128.31 is 20% of 7 x £91.65.

Mr D Gibbons

3. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on 5 days (10 April 2020, 13 April 2020, 8 May 2020, 25 May 2020, 31 August 2020). The respondent is ordered to pay damages to the claimant in the sum of £115.38. This is a net sum but is based on the claimant's gross pay because no net figure has been provided and the difference between the gross and net sum is likely to be very small, if any.
4. Mr Gibbons' complaints of constructive unfair dismissal and for failure to pay in lieu of accrued but untaken holiday on termination of employment will be determined at a final hearing.

Ms D J Hilliard

5. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 1 September 2020 to 23 November 2020 inclusive and is ordered to pay the claimant the gross sum of £7270.
6. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on 5 days (10 April 2020, 13 April 2020, 8 May 2020, 25 May 2020, 31 August 2020). The respondent is ordered to pay damages to the claimant in the sum of £104.90.
7. The respondent has made an unauthorised deduction from the claimant's wages by failing to pay the claimant in lieu of accrued but untaken holiday entitlement and is ordered to pay the claimant the gross sum of £1,653.80.
8. Ms Hilliard's complaint of constructive unfair dismissal will be determined at a final hearing.

Mr J Kilshaw

9. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on 5 days (10 April 2020, 13 April 2020, 8 May 2020, 25 May 2020 and 31 August 2020). The respondent is ordered to pay damages to the claimant in the sum of £93.44. This is a net sum but is based on the claimant's gross pay because no net figure has been provided and the difference between the gross and net sum is likely to be very small, if any.

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Note on amount of damages: no figure was provided by the claimant for the amount of damages claimed, but 9 days' holiday at 100% full pay was stated to be £840.96, so one day's full pay was £93.44. £93.44 is 20% of 5 x £93.44.

10. Mr Kilshaw's complaint of constructive unfair dismissal will be determined by a further judgment under rule 21 or at a final hearing.

Mr K Lowe

11. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 1 September 2020 to 16 November 2020 inclusive and is ordered to pay the claimant the gross sum of £2,553.12.

12. The respondent was in breach of contract by not paying the claimant (at the rate of 100% of normal pay) during his 12 weeks' notice period and the respondent is ordered to pay damages to the claimant in the sum of £3546.72. This is a net sum but is based on the claimant's gross pay because it is likely that upon receipt the claimant will have to pay tax on this amount.

13. The claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of £8,866.80.

14. The respondent has made an unauthorised deduction from the claimant's wages by failing to pay the claimant in lieu of accrued but untaken holiday entitlement and is ordered to pay the claimant the gross sum of £1004.87.

15. The complaint about underpayment for holiday taken during furlough will be the subject of a further judgment on paper or will be determined at a final hearing.

Mr C McCulloch

16. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 1 September 2020 to 10 December 2020 inclusive and is ordered to pay the claimant the gross sum of £6,420.10.

17. The complaint about underpayment for holiday taken during furlough will be the subject of a further judgment on paper or will be determined at a final hearing.

Mr W Roxburgh

18. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 1 September 2020 to 4 December 2020 inclusive and is ordered to pay the claimant the gross sum of £6,063.42.

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19. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 5 December 2020 to 4 April 2021 inclusive and is ordered to pay the claimant the gross sum of £7,579.28.
20. The respondent was in breach of contract by constructively dismissing the claimant without notice and the respondent is ordered to pay damages to the claimant in the sum of £6,687.60. This is a net sum but is based on the claimant's gross pay because it is likely that upon receipt the claimant will have to pay tax on this amount.
21. The claimant was constructively dismissed by reason of redundancy and is entitled to a redundancy payment of £16,140.
22. The respondent was in breach of contract by paying the claimant at the rate of 80% rather than 100% of normal pay for holiday taken on the following bank holidays: 25 December 2020, 28 December 2020, 1 January 2021, 2 April 2021 and 5 April 2021. The respondent is ordered to pay damages to the claimant in the sum of £156.04.
23. The respondent has made an unauthorised deduction from the claimant's wages by failing to pay the claimant in lieu of accrued but untaken holiday entitlement and is ordered to pay the claimant the gross sum of £2,151,18.
24. The claimant was constructively unfairly dismissed. No award of compensation is made since the claimant is entitled to be paid a statutory redundancy payment and no basic award is, therefore, payable, and the claimant does not claim a compensatory award.
25. The complaint about underpayment for holiday taken in the period 10 April to 31 August 2020 will be the subject of a further judgment on paper or will be determined at a final hearing.

Mr P Shelley

26. The respondent has made an unauthorised deduction from the claimant's wages by not paying wages to the claimant (at the rate of 80% of normal pay) in the period 1 September 2020 to 3 December 2020 inclusive and is ordered to pay the claimant the gross sum of £10,272.44.
27. The complaint in relation to employee pension contributions is dismissed since the claimant was not a member of the pension scheme.
28. The complaint about underpayment for holiday taken will be the subject of a further judgment on paper or will be determined at a final hearing.

Mr D Unsworth

29. The respondent has made unauthorised deductions from the claimant's wages by deducting amounts described as being for employee pension contributions but which were not paid to

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the pension scheme in the period 22 August 2019 to 21 August 2020 inclusive and the respondent is ordered to pay the claimant the gross sum of £1449.24.

30. The complaint about underpayment for holiday taken will be the subject of a further judgment on paper or will be determined at a final hearing.

Complaints in relation to employee pension contributions

31. The complaints of the following claimants in relation to employee pension contributions are stayed in accordance with separate case management orders: Mr S Ashby, Miss C Cookson, Mr C Dzydzan, Mr P Frazer, Mr R Gilfoyle, Mr D Gibbons, Ms D Hilliard, Mr J Kilshaw, Mr K Lowe, Mr C McCulloch, Mr J McGrath, Mr I Roe, Mr W Roxburgh, Mr D Shelley.

Employment Judge Slater

Date: 22 March 2022

JUDGMENT SENT TO THE PARTIES ON
23 March 2022

.....
AND ENTERED IN THE REGISTER

.....
FOR THE TRIBUNAL OFFICE

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(see schedule)**

Schedule	
Case Number	Claimant Name
2413312/2020	Mr Steven Ashby
2413341/2020	Mr Darren Unsworth
2418207/2020	Mr Darren Gibbons
2418501/2020	Mr Jason Kilshaw
2418603/2020	Mr Paul Shelley
2418612/2020	Mr Darren Unsworth
2418752/2020	Mr Lee Conroy-Phillips
2418780/2020	Mr Robert Gilfoyle
2418811/2020	Mr Ian Roe
2418812/2020	Mr William Roxburgh
2419458/2020	Mr Steven Ashby
2419487/2020	Mr Paul Frazer
2419548/2020	Mr Craig Dzydzan
2419621/2020	Mr Christopher McCulloch
2419632/2020	Mr Daniel Shelley
2419664/2020	Mr Kevin Lowe
2419641/2020	Miss Carole Cookson
2419915/2020	Mr John McGrath
2401024/2021	Ms Diane Jayne Hilliard
2402154/2021	Mr Kevin Lowe
2402202/2021	Mr John McGrath
2402144/2021	Miss Carole Cookson
2402767/2021	Mr Paul Shelley
2402768/2021	Mr Ian Roe
2408491/2021	Mr William Roxburgh



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2418207/2020 & others**

Name of case(s): **Mr D Gibbons & others** v **Lunar Automotive 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 judgment day" is: **23 March 2022**

"the calculation day" is: **24 March 2022**

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

For the Employment Tribunal Office