



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Renoden

**Respondent:** FAM Engineering Limited

**Heard at:** Manchester **On:** 24 May 2019

**Before:** Employment Judge Hoey (sitting alone)

## **Appearances**

For the claimant:

No appearance or representation

For the respondent:

Mr Maguire, Company Secretary

## JUDGMENT

1. The Respondent is ordered to pay to the claimant £500 being an unlawful deduction in respect of training costs deducted without lawful authorisation.
2. The sum is to be paid within 14 days.
3. The other claims are dismissed.

## REASONS

1. This case called for a final Hearing in respect of non-payment of sums the claimant argued were due to him.

### **Issues and claims**

2. The sums comprised an underpayment of his month's salary, a deduction for sick leave (when he had not taken leave), a deduction for training costs to which the claimant had not consented and accrued holidays due to the claimant.

### **Progressing matters**

3. At 10am the respondent had attended but the claimant was not in attendance or represented. I asked my clerk to call the claimant. The claimant advised my clerk that he had secured another job and was working. He said he did not think he needed to attend the Hearing. My clerk asked that he send an urgent email setting out his position.
4. An email was received at 1019am from the claimant. He said he did not know the hearing was taking place and asked for another date.
5. I explained the position to the respondent who considered matters and asked that the hearing proceed. I had checked with my listing team and if the hearing was adjourned, another date could not be found until September. It also seemed to me that it was possible to deal with the issues arising given the full terms of the claim form.
6. In terms of rule 47 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 an Employment Judge is permitted to dismiss a claim if a party does not attend or to deal with it from the information presented. In terms of rule 2 it is important to ensure that matters are dealt with justly and proportionately in light of the costs and issues arising. It was in accordance with the overriding objective to progress matters today.
7. I decided therefore that it was just to deal with each of the claimant's claims.
8. Mr Maguire produced a number of documents and spoke to each of the issues raised by the claimant. I shall deal with them in turn once I have set out the legal position.

### **Law**

9. In terms of section 13 of the Employment Rights Act 1996 it is unlawful for an employer to pay to an employee a sum less than that which is properly payable under the contract of employment. If the sum paid is less than that due, the Tribunal has the power to order repayment of the deduction (as set out in sections 23 and 24 of the 1996 Act). A Tribunal needs to determine what was paid to the employee and what was due. If there is a deficiency, that sum can be ordered to be paid.
10. Each of the sums claimed by the claimant relate to wages he said he was due in his final payment.
11. I now deal with each of the deductions in question and make the following findings in fact under each heading from the evidence to which I was directed.

## Determination of the issues

### Monthly salary underpayment

12. The first claim relates to an alleged underpayment in the claimant's final pay slip. The claimant says he should receive £2370 for a month's pay but was in fact paid £2070. The reason for the deduction is because the claimant did not work the full month. He finished on 24 November and did not work 28, 29 and 30 November.
13. He is not therefore due to be paid for those days. He was paid for the work he did. That claim therefore fails.

### Sickness deduction

14. The next claim raised by the claimant was for £156.75 which was deducted. The pay slip has this deduction under the heading "unpaid leave/sick day". This is a catch all category used in the pay slip. The claimant is paid via time sheets for each hour he works. At the end of each month the respondent tallies up the hours worked and pays accordingly.
15. From the timesheets and evidence in relation to the claimant held by the respondent, there was an overpayment of 16.5 hours. These relate to times on 31 October and on 15 and 16 November. He was not entitled to be paid for hours he did not work. In any event such a sum would be an overpayment of wages were it to be paid.
16. The claimant is not entitled to be paid for hours he did not work and this claim accordingly fails.

### Training deduction

17. The claimant seeks repayment of £500 which was deducted by the respondent to cover the training and obtaining of a qualification needed in the industry. The claimant signed his contract of employment which contains provision at clause 8 for deduction of certain sums. This clause (and the contract generally) does not, however, contain the power to deduct the specific training costs in question from the claimant's wages.
18. Without express consent to make such a deduction (and the respondent conceded there was no such express consent) this deduction is unlawful and this claim therefore succeeds.

### Holiday entitlement

19. The claimant argued he was due 4 days holidays. The claimant worked 5 days on and 3 days off. His holiday entitlement is to 24 days over the year. When he

finished he had accrued 22 days. He had taken 21 days and asked to take his last day of holiday for an interview just before his employment ended. He took that holiday.

20. The claimant had therefore exhausted his annual leave entitlement. This claim therefore fails.

**In summary**

21. The claimant's claim for £500 in respect of the deduction made for training is successful. The remaining claims are dismissed.

---

Employment Judge Hoey

24 May 2019

Date

JUDGMENT & REASONS SENT TO THE PARTIES ON

28 May 2019  
FOR THE TRIBUNAL OFFICE



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2401724/2019**

Name of case(s): **Mr D Renoden** v **F.A.M Engineering 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: **28 May 2019**

"the calculation day" is: **29 May 2019**

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

MR S ROOKE  
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.