



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Frank Tristan Thornhill

**First respondent:** Peter Connolly T/a Oakwood

**Second respondent:** Hartwood Elite Components Ltd

**Heard at:** Manchester      **On:** 28 May 2019

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

## Appearances

For the claimant: Mr Thornhill

For the respondents: No appearance or representation

# JUDGMENT

1. The correct name of the first respondent is Peter Connolly trading as Oakwood. The first respondent is the claimant's employer. The second respondent is not the claimant's employer and the claims against the second respondent are dismissed.
2. The first respondent shall pay to the claimant the following sums:
  - a. A redundancy payment in the sum of £3900
  - b. Underpayment of wages in the gross sum of £550
  - c. Holiday pay in the gross sum of £600
  - d. Unpaid wages (by way of lying time) in the gross sum of £300
  - e. Unpaid notice pay in the sum of £770

The first respondent is obliged to make such deductions as required by law from such sums and the above sums are to be paid to the claimant within 14 days of the date of this judgment.

# REASONS

1. This case called as a final Hearing to determine the issues raised.
2. The claimant was in attendance and had brought a number of documents, including his P60 and payslips.
3. No respondent was in attendance. The claim form had been served on Oakwood Horseboxes, Hartwood Elite Components Ltd, John Connolly, Peter Connolly all at the address within the claim form. No respondent had entered a response form.
4. The case began by identifying the issues to be determined which were (1) who the correct employer was (as the claimant was unclear who employed him) and (2) what sums he was due. He maintained he had been dismissed by reason of redundancy and there were sums due to him by way of unpaid wages.

## Facts

5. I am able to make the following findings in fact from the evidence I heard and from the documents to which my attention was directed.
6. The claimant was engaged on 1 July 2003 by a trading entity called "Oakwood" as horsebox builder.
7. The business was run from a building which had the name Hartwood Elite Limited above the door and was known locally as "Hartwood". The claimant was managed on a daily basis by Peter Connolly. Michael Connolly was the individual who operated the business and ran it. He would also occasionally attend the premises.
8. The claimant tried to contact whom he thought was his employer but was not given clear information as to the legal entity behind "Oakwood". The claimant tried to speak with the accountant who would not reveal meaningful information. The claimant wrote to Mr P Connolly to seek payment. In a text response Mr Connolly alleged that the claimant was employed by Oakwood Horse Box Company not Hartwood Elite Components Limited. Oakwood Horse Box Company is not a legal entity and appears to be a trading name in relation to Oakwood.
9. Michael Connolly was the person who traded as Oakwood and he was accordingly the claimant's employer.
10. The claimant received his wages, £300 a week, from Oakwood which was also the name on his P60.
11. On 14 September 2018 the claimed was not paid his wages. He was not given work. He was dismissed by reason of redundancy.
12. The claimant did not receive any redundancy payment nor any notice pay. He had also been underpaid wages by £550. He was due 2 week's holiday. He was

also due a week's lying time. Despite attempts by the claimant to seek the sums due to him, no payment had been made.

13. The claimant secured alternative employment on 1 October 2018 paying £283 a week.

### **The law**

14. Where an employee's employment ends by reason of redundancy (as defined in the Employment Rights Act 1996), which is essentially where there is a reduction of work or closure of the business or place where the person is employed, the individual may be entitled to a redundancy payment calculated as set out in Part XI of the Employment Rights Act 1996.
15. An employee is also entitled to notice as set out in section 86 of the Employment Rights Act 1996 which is based upon length of service. Failure to pay the notice due to an employee can be claimed as damages for breach of contract. If an employee receives wages from another employer during the notice period, these sums should be taken into account in calculating sums due.
16. If an employer fails to pay the sum properly payable to an employee by way of wages, the deduction can be claimed under sections 13 and 23 of the Employment Rights Act 1996 and the Tribunal can order the employer pay the employee the sums due.
17. A worker is also entitled to holidays due under the Working Time Regulations 1998. Regulation 14 sets out what a worker is due upon cessation of employment in terms of accrued holiday pay.

### **Applying the law to the facts**

18. The claimant's employer is as set out above which is capable of being determined from the evidence. It is that entity, the first respondent, who is liable to pay the claimant the sums due to him arising from his employment.
19. I am satisfied that the claimant was dismissed by reason of redundancy. He was not paid wages and no work was offered. He is therefore entitled to a redundancy payment.
20. As he had 15 years' service with gross weekly pay of £300 and was aged 33 at the date of dismissal, his redundancy payment entitlement is to 13 (the multiplier set out in the legislation) x £300 which is £3900.
21. I am also satisfied that the claimant was underpaid £550 which was an unlawful deduction from his wages. These were the total of the sporadic sums whereby his monthly wages fell short of the sums due to him under his contract of employment.
22. The claimant is also entitled to 2 week's holiday pay in the sum of £600. He had taken the remainder of his leave entitlement.
23. He is due to be repaid the week's lying time of £300.

24. Finally the claimant was due 12 week's notice of termination. As he secured a new job on 1 October, he is due £300 a week up to that point (2 weeks x £300) with the remaining 10 weeks at £300 - £283 (the new job's weekly pay). The last 10 week's notice pay amounts to £170. His notice pay entitlement is therefore £770.
25. The first respondent is obliged to pay the above sums, as the claimant's employer, within 14 days of the date of this judgment, making such deductions as required by law.

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Employment Judge Hoey

28 May 2019

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Date

JUDGMENT & REASONS SENT TO THE PARTIES ON

11 June 2019

FOR THE TRIBUNAL OFFICE



**NOTICE**

**THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990**

Tribunal case number(s): **2418019/2018**

Name of case(s): **Mr FT Thornhill** v **Peter Connolly T/a Oakwood  
Hartwood Elite Components 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: **11 June 2019**

"the calculation day" is: **12 June 2019**

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

MISS H KRUSZYNA  
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.