



# EMPLOYMENT TRIBUNALS

**Claimants:** Ms M Watmough & others

**Respondents:** 1. IBA Recruitment Limited  
2. Spire Hospitality Limited

**Heard at:** Manchester Employment Tribunal (sitting at Manchester Magistrates Court)

**On:** 18<sup>th</sup> October 2019

**Before:** Employment Judge Howard

## Representation

**Claimants:** Ms Quinn, Solicitor

**Respondents:** Not in attendance

# JUDGMENT

1. The second respondent's details are amended to Spire Hospitality Limited.
2. The claimants' claims of failure to inform and consult pursuant to Regulation 15 and contrary to the requirements of Regulations 13 & 14 of TUPE Regulations 2006 succeed against the first and second respondents who are jointly and severally liable pursuant to Regulation 15(9) TUPE.
3. The claimants' claims for unlawful deductions from pay, pursuant to the provisions of Part II Employment Rights Act 1996, succeed against the second respondent.
4. The claimants' claims for unpaid accrued holiday, pursuant to Regulations 13 & 13A Working Time Regulations 1998 succeed against the second respondent.
5. The claimants' claims of failure to provide an updated statement of employment particulars, complying with the requirements of Ss 1 & 4 Employment Rights Act 1996, succeed against the second respondent.
6. The First and Second Respondent are ordered to pay **£36,979.88** to the claimants (compensation for failing to inform and consult).

7. The second respondent is ordered to pay **£54,699.15** to the claimants consisting of:

7.1 Unpaid wages, accrued holiday pay and compensation for failure to provide S4 statements: **£29,739.15**.

7.2 The second respondent acted unreasonably in the way that the proceedings have been conducted. The second respondent is ordered to pay the claimants' costs of **£24,960.00** pursuant to Rule 74 ET(C&RP) Regulations 2013.

8. The awards made to each claimant (excluding costs) are as follows:

**1. Michelle Watmough: £3,608.98**

1<sup>st</sup> & 2<sup>nd</sup> R: Failure to inform and consult: **£1,929.26**

2<sup>nd</sup> R: Unpaid wages: £306.12  
Unpaid accrued holiday: £780.00  
S4 statement: £593.60  
Total: **£1,679.72**

**2. Amanda Critchley: £2,707.50**

1<sup>st</sup> & 2<sup>nd</sup> R: Failure to inform and consult: **£1,560.00**

2<sup>nd</sup> R: Unpaid wages: £600.00  
Unpaid accrued holiday: £67.50  
S4 statement: £480.00  
Total: **£1,147.50**

**3. Anna Gorolova: £3,506.15**

1<sup>st</sup> & 2<sup>nd</sup> R: Failure to inform and consult: **£1,692.43**

2<sup>nd</sup> R: Unpaid wages: £730.50  
Unpaid accrued holiday: £562.50  
S4 statement: £520.72  
Total: **£1,813.72**

**4. Anna Skalova: £5,063.60**

1<sup>st</sup> & 2<sup>nd</sup> R: Failure to inform and consult: **£2,340.65**

2<sup>nd</sup> R: Unpaid wages: £1,800.25  
Unpaid accrued holiday: £202.50  
S4 statement: £720.20  
Total: **£2,722.95**

**5. Corina Chiriac: £3,987.49**

1<sup>st</sup> & 2<sup>nd</sup> R: Failure to inform and consult: **£2,872.35**

2<sup>nd</sup> R: Unpaid wages: £103.84

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(schedule attached)**

	Unpaid accrued holiday:	£127.50
	S4 statement:	£883.80
	<b>Total:</b>	<b>£1,115.14</b>
<b>6. Doda Miklos:</b>		<b>£3,406.10</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£2,062.12</b>
2 <sup>nd</sup> R:	Unpaid wages:	£634.50
	Unpaid accrued holiday:	£75.00
	S4 statement:	£634.48
	<b>Total:</b>	<b>£1,343.98</b>
<b>7. Eva Gorolova:</b>		<b>£2,821.25</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£1,670.50</b>
2 <sup>nd</sup> R:	Unpaid wages:	£261.75
	Unpaid accrued holiday:	£375.00
	S4 statement:	£514.00
	<b>Total:</b>	<b>£1,150.75</b>
<b>8. Iveta Tonkova:</b>		<b>£3,260.10</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£1,690.65</b>
2 <sup>nd</sup> R:	Unpaid wages:	£876.75
	Unpaid accrued holiday:	£172.50
	S4 statement:	£520.20
	<b>Total:</b>	<b>£1,569.45</b>
<b>9. Julian Rogers:</b>		<b>£6,637.00</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£3,857.75</b>
2 <sup>nd</sup> R:	Unpaid wages:	£564.75
	Unpaid accrued holiday:	£1,027.50
	S4 statement:	£1,187.00
	<b>Total:</b>	<b>£2,779.25</b>
<b>10. Kirsty Pennill:</b>		<b>£4,221.59</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£2,491.58</b>
2 <sup>nd</sup> R:	Unpaid wages:	£415.87
	Unpaid accrued holiday:	£547.50
	S4 statement:	£766.64
	<b>Total:</b>	<b>£1,730.01</b>
<b>11. Lucie Tobjaszova:</b>		<b>£4,365.60</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£2,265.90</b>

2 <sup>nd</sup> R:	Unpaid wages:	£1,155.00
	Unpaid accrued holiday:	£247.50
	S4 statement:	£697.20
	Total:	<b>£2,099.70</b>
<b>12. Natalia Karolina Dimanczyk:</b>		<b>£6,681.51</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£3,609.84</b>
2 <sup>nd</sup> R:	Unpaid wages:	£1,015.95
	Unpaid accrued holiday:	£945.00
	S4 statement:	£1,110.72
	Total:	<b>£3,071.67</b>
<b>13. Peter McConville:</b>		<b>£1,389.15</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£668.85</b>
2 <sup>nd</sup> R:	Unpaid wages:	£257.25
	Unpaid accrued holiday:	£257.25
	S4 statement:	£205.80
	Total:	<b>£720.30</b>
<b>14. Sam Lindley-Cross:</b>		<b>£1,976.44</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£997.23</b>
2 <sup>nd</sup> R:	Unpaid wages:	£346.12
	Unpaid accrued holiday:	£326.25
	S4 statement:	£306.84
	Total:	<b>£979.21</b>
<b>15. Zefiryna Lewandowska:</b>		<b>£8,268.32</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£4,514.77</b>
2 <sup>nd</sup> R:	Unpaid wages:	£885.39
	Unpaid accrued holiday:	£1,479.00
	S4 statement:	£1,389.16
	Total:	<b>£3,753.55</b>
<b>16. Andrea Jonasova:</b>		<b>£4,818.25</b>
1 <sup>st</sup> & 2 <sup>nd</sup> R:	Failure to inform and consult:	<b>£2,756.00</b>
2 <sup>nd</sup> R:	Unpaid wages:	£696.75
	Unpaid accrued holiday:	£517.50
	S4 statement:	£848.00
	Total:	<b>£2,062.25</b>

**Case No: 2413383/2018 & others  
(schedule attached)**

Employment Judge Howard  
Date: 18<sup>th</sup> October 2019

ORDER SENT TO THE PARTIES ON  
21 October 2019

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.

**Schedule of Claims**

2413383/2018	Ms M Whatmough
2413384/2018	Ms A Skalova
2413385/2018	Mr P McConville
2413386/2018	Ms S Lindley-Cross
2413387/2018	Ms K Pennill
2413388/2018	Ms L Tobjaszova
2413389/2018	Ms NK Domanczyk
2413390/2018	Ms A Critchley
2413391/2018	Ms C Chiriac
2413392/2018	Ms E Gorolova
2413393/2018	Ms Z Lewandowska
2413394/2018	Ms A Gorolova
2413395/2018	Ms A Jonasova
2413396/2018	Mr J Rogers
2413397/2018	Mr D Miklos
2413398/2018	Ms I Tonkova



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2413383/2018 & 15 Others (see schedule)**

Name of case(s): **Ms M Whatmough & 15 Others (see schedule)** v **1. IBA Recruitment Limited**  
**2. Spire Hospitality Limited**

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: **21 October 2019**

"the calculation day" is: **22 October 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.