



EMPLOYMENT TRIBUNALS

Claimants: (1) Miss C Howard
(2) Mrs L Bushell
(3) Miss J Barr

Respondents: A1 Nursing and Homecare Agency
(in Creditors Voluntary Liquidation)

JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

The respondent not having presented a response to the claims, and on the information before the Judge,

The judgment of the Tribunal is that:

1. The claimants' complaints under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the 1992 Act) of a failure by the respondent to comply with the requirements of section 188 of the 1992 Act are well-founded.
2. The Tribunal orders the respondent by way of protective award under section 189(3) of the 1992 Act to pay to the first and second claimants a payment equivalent to remuneration for the period of 90 days beginning on 28 October 2019.
3. The respondent has made an unauthorised deduction from the first claimant's wages and is ordered to pay the first claimant the gross sum of **£676.56**.
4. The respondent has made an unauthorised deduction from the second claimant's wages and is ordered to pay the second claimant the gross sum of **£1187**.
5. The respondent has made an unauthorised deduction from the third claimant's wages and is ordered to pay the third claimant the gross sum of **£134.36**
6. The first claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of **£525**.

7. The second claimant was dismissed by reason of redundancy and is entitled to a redundancy payment of **£2100**.

REASONS

1. The claimants claimed a protective award in respect of breaches of the collective consultation requirements under the 1992 Act. No response was presented to the claims by the respondent.

2. The respondent is in creditors voluntary liquidation.

3. On a full consideration of the file of proceedings it was possible to issue this Judgment under Rule 21 in respect of the claims without a hearing. Code P under the case number above reflects this.

4. On the information provided, the Tribunal makes the following findings.

5. The respondent employed over 20 employees at the head office. There was no trade union recognised for collective bargaining, consultation or negotiation with the workforce.

6. The employees were all told at a meeting on 28 October 2019 that the respondent was closing down and they were all being made redundant with immediate effect.

7. There was no proper warning or notice given to or consultation with the workforce. No employee representatives had been elected or appointed for any such consultation within Section 188A of the 1992 Act.

8. In these circumstances, the respondent is in breach of the duty under Section 188 of the 1992 Act and the Tribunal makes an award under Section 189 in favour of the claimants for the maximum protected period of 90 days commencing on 28 October 2019.

9. The respondent is advised of the provisions of Regulation 6 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within 10 days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the respondent must comply with the provisions of Regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State the following information in writing:

9.1. the name, address and national insurance number of every employee to whom the award relates; and

9.2. the date of termination of the employment of each such employee.

10. The respondent will not be required to make any payment under the protective awards made until it has received a recoupment notice from the Secretary of State or

notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the first respondent.

11. The claimants claimed unlawful deduction from wages contrary to section 13 of the Employment Rights Act 1996.

12. The first claimant was entitled to £2476.08 gross wages for the period 29 September 2019 to 27 October 2019. The first claimant only received £1799.52 gross wages for that period. The first claimant suffered an unlawful deduction of wages of £676.56 gross for that period.

13. The second claimant was entitled to £2258 gross wages for the period 29 September 2019 to 27 October 2019. The second claimant only received £1071 gross wages for that period. The second claimant suffered an unlawful deduction of wages of £1187 gross for that period.

14. The third claimant was entitled to £2006.76 gross wages for the period 29 September 2019 to 27 October 2019. The third claimant only received £1872.40 gross wages for that period. The third claimant suffered an unlawful deduction of wages of £134.36.

15. The first claimant worked for the respondent from 1 May 2017 to 28 October 2019. The first claimant was born on 27 May 1997. Therefore, in accordance with section 162(2)(c) of the Employment Rights Act 1996 she is entitled to half a week's pay for each complete year of employment with the respondent at the rate of £525 per week in accordance with Employment Rights (Increase of Limits) Order 2019.

16. The second claimant worked for the respondent from 15 October 2015 to 28 October 2019. The second claimant was born on 9 October 1985. Therefore, in accordance with section 162(2)(b) of the Employment Rights Act 1996 she is entitled to a week's pay for each complete year of employment with the respondent at the rate of £525 per week in accordance with Employment Rights (Increase of Limits) Order 2019.

Employment Judge Ainscough
Date: 15 October 2020

**Case Numbers 2400687/2020
2400701/2020
2400891/2020
Code P**

JUDGMENT SENT TO THE PARTIES ON
20 October 2020

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 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 numbers: **2400687/2020 & Others**

Name of cases: **Miss C Howard & Others** v **A1 Nursing & Home Care Agency (In Creditors Voluntary Liquidation)**

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: 20 October 2020

"the calculation day" is: 21 October 2020

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

MR S ARTINGSTALL
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

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.