



EMPLOYMENT TRIBUNALS

Claimant: Miss D M Coloma Valencia

Respondent: Safwan Baig Group Limited (in Liquidation)

Heard at: Manchester (by CVP)

On: 27 November 2020

Before: Employment Judge Whittaker

REPRESENTATION:

Claimant: In person

Respondent: No appearance or Response entered

JUDGMENT

The judgment of the Tribunal is that the respondent shall pay to the claimant the total sum of £2,837.49 representing two amounts of unpaid wage in the sums of £246.30 and £678.13 and unpaid holiday pay outstanding at the termination of her employment in the sum of £956.46.

REASONS

1. The claimant was employed by the respondent company as a waitress between 2 January 2019 and early June 2019.
2. The claimant gave evidence to the Tribunal today and was able to show the Tribunal a number of documents which she had in front of her, even though these had not been sent to the Tribunal. Importantly these included her contract of employment. The documents also included her payslips. These showed that the claimant was engaged at an hourly rate of £8.21 per hour.
3. The claimant gave evidence to say that she worked 57 hours in January 2019. She had these records as a screenshot from records maintained by the respondent company. The claimant therefore should have been paid £8.21 per hour for each of those 57 hours worked. That would have been a total of £467.97. The claimant however was only paid £416.31 leaving a shortfall due to her of £51.66.

4. In February the claimant worked 87.51 hours. At £8.21 per hour she should have been paid £718.45. She was paid £400, leaving a shortfall of £318.45.

5. In March the claimant worked 137.64 hours. At the hourly rate of £8.21 per hour the claimant should have been paid £1,130.02. She was paid £822. This left a shortfall of £308.02.

6. The total underpayment of wages therefore amounted to £678.13 which the respondent company is ordered to pay to the claimant.

7. The claimant also worked hours at the end of May 2019 and on 1 June 2019. The claimant gave evidence that the minimum hours she worked were from 12.00pm until 10.30pm. She took an unpaid 30 minutes for a break. The Tribunal accepted therefore that the claimant worked ten hours a day. The claimant was unpaid for the three days at the end of May and 1 June. She worked ten hours on each of those days, a total of 30 hours. At the hourly rate of £8.21 per hour the claimant should have been paid £246.30 but was not paid for those hours. The respondent is therefore ordered to pay to the claimant the sum of £246.30 as unpaid wages.

8. The claimant was told in her contract of employment that she was entitled to 5.6 weeks (28 days) holiday each year. She worked for the company for a total of five months but did not take and was not paid for any holidays including Bank Holidays. This was the evidence which was given to the Tribunal by the claimant and which the Tribunal accepted. The claimant was therefore accruing 2.33 days' holiday for each month worked. She worked for five months. She therefore accrued 11.65 days' holiday. The Tribunal has already said that it accepted that the claimant worked, on average, ten hours per day. Ten hours per day at £8.21 per hour entitled the claimant to £82.10 for each working day. The claimant was entitled to 11.65 days at the daily rate of £82.10, a total of £956.46. This was the value of her accrued but untaken holiday at the termination of her employment in early June 2019. The claimant has not been paid any of that money and the respondent is therefore ordered to pay that sum to the claimant, representing the value of accrued but untaken holiday as at the termination of her employment.

9. The total of the three sums awarded above is £2,837.49.

Employment Judge Whittaker
Date: 27th November 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON
3 December 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 number: 2409988/2019
Miss DM Coloma Valencia v Safwan Baig Group Limited (in 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: 3 December 2020

"the calculation day" is: 4 December 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/collections/employment-tribunal-forms

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.