



EMPLOYMENT TRIBUNALS

Claimant: Mr J Fitton

Respondent: Alex Hugo International Limited

Heard at: Manchester (remotely, by CVP)

On: 29 June 2021

Before: Employment Judge Whittaker (sitting alone)

Representatives

For the claimant: Not in attendance

For the respondent: Mr S Gurjee, HR Manager
Mrs O Holmes, Payroll Manager

JUDGMENT

The judgment of the Tribunal is that:

1. With the consent of the respondent, the respondent shall pay the sum of £292.30 to the claimant representing the value of two days' holiday which the claimant had accrued but not taken when he left the employment of the respondent in October 2020.
2. The name of the respondent is changed to Alex Hugo International Limited.

REASONS

1. The claimant submitted a claim form to the Tribunal on 23 December 2020. He indicated that his single claim was for holiday pay. He provided no details of the amount of money that he said he was owed, or how any such amount had been calculated. He simply said, "I haven't been paid the holidays I am owed".
2. Understandably, the Tribunal wrote to the claimant more than once but most recently on 23 March 2021 ordering the claimant by no later than 6 April 2021 to write and tell both the Tribunal and the respondent how much the claimant was claiming and how it was calculated. The claimant did not have the courtesy to even reply to that letter. Furthermore, he failed to provide any of the particulars which the Tribunal had requested of him. This was three months after the claimant had submitted his

claim form. It ought to have been clear to anyone that if they were submitting a claim to a Tribunal for a sum of money, in this case holiday pay, that the Tribunal would need to know how much the person was claiming and how that was calculated.

3. The claim of the claimant was due to be heard on 12 May 2021 but because the claimant had failed to provide the particulars which the Tribunal had requested of him, that case was postponed. In other circumstances another Tribunal Judge might even at that stage have taken the view that due to the complete lack of cooperation from the claimant that his claim at that stage should be dismissed rather than simply being postponed. In those circumstances the Tribunal demonstrated significant leniency to the approach of the claimant to his claim.

4. The claimant's claim was then adjourned until today. Again the Tribunal wrote to the Tribunal advising him of that date and indicating that it was his responsibility to ensure that documents which the Tribunal would need in order to deal with his claim were submitted to the Tribunal at least five working days before today's hearing. Nothing was sent by the claimant. Indeed nothing was heard from the claimant at all.

5. Most helpfully the Tribunal in those circumstances, having heard nothing from the claimant, sent him a reminder email yesterday, 28 June 2021, reminding him that his case was due to be heard today via video. Again the claimant failed to submit any calculations in respect of his holiday pay and provided no details at all of the amount that he was looking for. Instead he replied, albeit promptly, to that email, simply say that he would be unable to attend the hearing today. However, his explanations were completely unsatisfactory. The claimant made some vague reference to COVID but provided no other details. Furthermore, the claimant indicated that he had been unable to find work in recent months, but the Tribunal today could not understand how that in any way prevented the claimant from participating in the hearing today. Indeed if the claimant had not been able to find work then that at least suggested that the claimant did have a genuine opportunity to participate. However, the claimant did not participate.

6. Mr Gurjee told the Tribunal that the respondent had made numerous attempts to contact the claimant in order to discuss his claim with him and to attempt to seek an agreed resolution to his claim for holiday pay. However, Mr Gurjee told the Tribunal that those attempts had been completely unsuccessful because the claimant had not responded to any invitations by the respondent company to discuss this matter.

7. Mrs Holmes indicated that having looked at the company's records the company was satisfied that when the claimant left the employment of the respondent in October 2020 the claimant had accrued but had not taken two days' holiday pay. She told the Tribunal that from the payroll records the value of one day's holiday pay was £146.15. Two days' holiday pay therefore was valued at £292.30. Most helpfully, and indeed quite surprisingly, both Mr Gurjee and Mrs Holmes indicated that the company was still quite happy to pay that money to the claimant, recognising that he had accrued the holidays but had not taken them. The company was extremely unhappy about the way in which the claimant had terminated his employment. He had apparently simply abruptly left without notice and without any advance communication to the company whatsoever. There was therefore an understandable sense of grievance on the part of the respondent company. Nevertheless, Mr Burjee and Mrs Holmes indicated that the company was prepared for the Tribunal to enter a Judgment with their consent in the sum of £292.30.

8. The Tribunal was extremely grateful for their professional approach to these matters, which was in direct contrast to the approach of the claimant despite the fact that it was his claim and despite the fact that the claim was lodged by him with the Tribunal over six months ago.

9. Mr Gurjee also told the Tribunal that the correct legal title of the respondent company was Alex Hugo International Limited, and on that basis judgment is entered against that legal entity in the sum of £292.30.

10. Finally, it is very much to be regretted that the claimant did not adopt the approach to his claim that was adopted by Mr Gurjee and Mrs Holmes. The company and the Tribunal had a realistic expectation that if Mr Fitton lodged a claim with the Tribunal that he would take it seriously, that he would respond to requests for information and that he would respond promptly. The claimant, in contrast, did none of these things and in effect having lodged his claim in December 2020 then did nothing whatsoever to pursue it in a responsible and reasonable manner.

Employment Judge Whittaker

Date: 29th June 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON

5 July 2021

FOR THE TRIBUNAL OFFICE

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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: **2420656/2020**

Name of case: **Mr J Fitton** v **Alex Hugo International 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 judgment day" is: 5 July 2021

"the calculation day" is: 6 July 2021

"the stipulated rate of interest" is: 8%

For the Employment Tribunal Office