



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs A Amin  
**Respondent:** OBBS Ltd  
**At:** Manchester (in chambers)  
**On:** 25 October 2021  
**Before:** Judge BJ Doyle  
Mrs J Byrne  
Ms S Khan

## REMEDY JUDGMENT

Further to the Tribunal's judgment on liability dated 21 September 2021, and the Order for Disclosure of the same date, the respondent is ordered to pay to the claimant the sum of £14,623.96 in respect of unlawful deductions from, or non-payment of, wages contrary to Part 2 of the Employment Rights Act 1996.

## REASONS

1. At the conclusion of a 4 days' hearing on 13-16 September 2021, the Tribunal determined that the claimant's claim was well-founded in part. The Tribunal found that the claimant's complaint of unlawful deductions from, or non-payment of, wages contrary to Part 2 of the Employment Rights Act 1996 was well-founded and succeeded.
2. In its oral decision on 16 September 2021, the Tribunal informed the parties that in its findings of fact the claimant's gross wages properly payable for the period of employment in 2017 and 2018 amounted to £16,491.94 by its calculation. The Tribunal questioned whether the sums recorded by the respondent as having been paid to the claimant had in fact been paid, despite the *prima facie* evidence of such alleged payments contained in a P60, a P45 and HMRC returns or records. The respondent produced wage slips in support of its position, which the Tribunal found had not in fact been provided to the claimant at the time.

3. The respondent's evidence suggested that it had paid the claimant a total of £8,374.54 gross. However, if the evidence of the wage slips was to be believed, much of that sum had been extinguished or reduced by deductions made for loan payments (or "advances of wages", as the respondent alternatively put it) made to the claimant and/or her husband. The claimant denied that she had received the payments represented by the pay slips, whether in cash or by bank transfer, although she accepted that she had received payments amounting to a total of £1,867.98 into her bank account in 2018.
4. The Tribunal considered that the conflict in this evidence could be resolved by requiring the parties to make fuller disclosure of relevant documentary evidence other than such evidence that was before the Tribunal at that time.
5. Accordingly, by separate Order, the Tribunal required the claimant by 14 October 2021 to send to the Tribunal (with a copy to the respondent's legal representative) unredacted and unedited copies of statements or other records in respect of all or any bank or building society accounts held by her and by her husband, and covering the period 1 April 2017 to 31 January 2019, so that the Tribunal could be enabled to see what payments were made into or otherwise credited to those accounts from OBBS Ltd (by whatever means) or in cash.
6. As part of that Order, and by the same date, the respondent was required to send to the Tribunal (with a copy to the claimant) unredacted and unedited copies of statements or documents or other records in respect of its company accounts (however maintained) and all or any bank or building society accounts held by the company or by its director, Mr Shah, and covering the period 1 April 2017 to 31 January 2019, so that the Tribunal could be enabled to see what payments were made into or otherwise credited to the claimant or her husband (by whatever means) or in cash (whether said to be wages, advances upon wages, loans, statutory maternity pay or reimbursement of expenses).
7. The Tribunal indicated that it would then resume its consideration of remedy in chambers as soon as possible thereafter. It warned the parties that the Tribunal might draw adverse or negative inferences from non-disclosure of relevant documents. The above orders were made (and explained to the parties) at the conclusion of the hearing on 16 September 2021.
8. The claimant has complied with that order by disclosing detailed bank statements for accounts held at Barclays and at NatWest by her or by her husband.
9. The respondent has not complied with that order. The Tribunal has received no further evidence or submissions or correspondence from the respondent. The Tribunal draws adverse inferences from that state of affairs.
10. The respondent's original evidence in the form of wage slips suggests that various payments over a number of months were made to the claimant by BACS transfer, including deductions for income tax, national insurance and "loans". The Tribunal would expect to see evidence of such payments appearing in the bank statements of the claimant and her husband. Payments from OBBS Ltd (or Mr Shah) of sums totalling £1,867.98 do appear in the

statements of the claimant's bank accounts, together with other payments clearly identified as being "reimbursement" of expenses. However, no other sums appear to have been paid by BACS as alleged by the respondent and as suggested by the wage slips. If sums were paid to the claimant by way of cash in her hand, then the evidence of the bank statements do not obviously reveal such fact.

11. It would have been relatively easy for the respondent to have evidenced these bank or cash payments to the claimant by producing its records or statements. It has not done so. The Tribunal draws an adverse inference and concludes that the respondent did not in fact make the payments it alleges. Nor has it produced evidence that might have caused the Tribunal to reconsider whether the respondent was authorised to make deductions from wages or withhold payment or wages in respect of "loans" or "advances" said to have been made by the respondent to the claimant (or her husband).
12. In conclusion, therefore, the Tribunal determines that the claimant is entitled to be paid the sum of £14,623.96 – being the difference between £16,491.94 wages properly payable for the period in question and the sum of £1,867.98 actually paid to the claimant (as evidenced by the bank statements).
13. These written reasons are provided in relation to the remedy decision only. No application for written reasons has been made in respect of the liability decision.

Judge Brian Doyle  
Date: 29 October 2021

JUDGMENT SENT TO THE PARTIES ON  
2 November 2021

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.



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2401728/2019**

Name of case: **Mrs A Amin** v **OBBS 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 judgment day" is: 2 November 2021

"the calculation day" is: 3 November 2021

"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](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.