



EMPLOYMENT TRIBUNALS

Claimants: Mr D Williams & others (see schedule)

Respondents:

1. Mrs C Timmons t/a Hillside Care Home
2. Mr D Timmons t/a Hillside Care Home
3. Secretary of State for Business, Energy and Industrial Strategy.

JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

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

The judgment of the Tribunal is that:

1. The response submitted by the second respondent is struck out in accordance with rule 37 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 because it has no reasonable prospect of success.

2. The claims of:

a) unlawful deduction from wages contrary to section 13 of the Employment Rights Act 1996;

b) notice pay in accordance with section 86 of the Employment Rights Act 1996 - the right to minimum notice;

c) breach of contract and

d) holiday pay in accordance with regulation 14 of the Working Time Regulations 1998.

are well-founded and the first and second respondents are jointly and severally liable for the following awards of compensation:

Daniel Williams

- a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£872.30**.
- b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£317.20**
- c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£396.50**

Caroline Makin

- a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1354.59**.
- b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£1566**
- c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1174.50**

Rebecca Jones

- a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1189.50**.
- b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£2141.10**
- c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£2220.40**

Lorraine Cleary

- a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1620.81**.
- b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£2192.40**
- c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1800.90**

Gina O'Neil

- a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1244.97**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£2192.40**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1096.20**

Pamela Jennings

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£793**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£1903.20**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£2061.80**

Viveene Brooks

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1268.80**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£3235.44**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1268.80**

Debra Murphy

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1506.70**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£3806.40**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1268.80**

Mark Cowan

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1558.17**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£1879.20**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1017.90**

Suellen Wood

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1174.50**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£2192.40**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£783**

Dianna Williams

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1566**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£1566**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1800.90**

Janet Dabti

a) The respondents have made an unauthorised deduction of wages and are ordered to pay the gross sum of **£1659.96**.

b) The respondents failed to pay the claimant during the notice period and are ordered to pay the gross sum of **£1252.80**

c) The respondents failed to pay the claimant accrued annual leave on termination of employment and are ordered to pay the gross sum of **£1800.90**

REASONS

1. The claimants all worked for the first and second respondents who traded as Hillside Care Home. On 5 October 2018 the care home closed and the claimants' employment was terminated.

2. Following a period of ACAS early conciliation, on 5 January 2019 the claimants submitted claims for breach of contract, unlawful deduction from wages, arrears of holiday pay and arrears of notice pay.

3. On 5 February 2019 the first respondent confirmed she would not be contesting the claims. On 7 January 2019 the first respondent was subject to a bankruptcy order.

4. The claims were sent to the third respondent on 14 February 2019. On 1 March 2019 the third respondent submitted a response contesting that the dissolution of the first and second respondents' partnership amounted to insolvency for the purposes of the section 183 of the Employment Rights Act 1996. The third respondent disputed that the claims could be satisfied with payment from the National Insurance Fund.

5. The claimants subsequently claimed a redundancy payment from the National Insurance Fund.

6. On 9 May 2019 the second respondent submitted a response in which he disputed that he was the claimants' employer.

7. On 29 November 2019 Employment Judge Slater determined that the first and second respondents were the claimants' employers and were jointly and severally liable to pay the claimants compensation.

8. On 27 March 2020 the claimants provided details of their losses.

9. On 16 April 2020 the second respondent refused to consent to the payment of the claimants' losses as he was unable to obtain documentation from the first respondent to ascertain those losses.

10. On 30 November 2020 the second respondent made an application for specific disclosure.

11. On 3 June 2021 the second respondent failed to attend a preliminary hearing to determine his application for specific disclosure.

12. On 13 July 2021 the second respondent confirmed that he was unable to take part in any final hearing because he did not have access to the relevant documentation.

13. As the second respondent did not seek to amend his response following the judgment of Employment Judge Slater, it has been struck out because it has no reasonable prospect of success.

14. The Tribunal has made the awards of compensation for the following reasons:

Daniel Williams

15. The claimant received £7.93 per hour and was contracted to work 20 hours per week. The claimants gross weekly wage was £158.60. The respondents unlawfully deducted 110 hours pay from the claimant.

16. The claimant worked for the first and second respondents from 12 October 2015 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to two weeks notice pay.

17. On termination of employment the claimant had accrued 50 hours of annual leave.

Caroline Makin

18. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 173 hours pay from the claimant.

19. The claimant worked for the first and second respondents from 1 January 2013 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to five weeks notice pay.

20. On termination of employment the claimant had accrued 150 hours of annual leave.

Rebecca Jones

21. The claimant received £7.93 per hour and was contracted to work 30 hours per week. The claimants gross weekly wage was £237.90. The respondents unlawfully deducted 150 hours pay from the claimant.

22. The claimant worked for the first and second respondents from 23 May 2009 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to nine weeks notice pay.

23. On termination of employment the claimant had accrued 280 hours of annual leave.

Lorraine Cleary

24. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 207 hours pay from the claimant.

25. The claimant worked for the first and second respondents from 7 October 2010 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to seven weeks notice pay.

26. On termination of employment the claimant had accrued 230 hours of annual leave.

Gina O'Neill

27. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 159 hours pay from the claimant.

28. The claimant worked for the first and second respondents from 25 March 2011 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to seven weeks notice pay.

29. On termination of employment the claimant had accrued 140 hours of annual leave.

Pamela Jennings

30. The claimant received £7.93 per hour and was contracted to work 20 hours per week. The claimants gross weekly wage was £158.60. The respondents unlawfully deducted 100 hours pay from the claimant.

31. The claimant worked for the first and second respondents from 1 September 2000 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment subject to a maximum of twelve weeks and is therefore entitled to twelve weeks notice pay.

32. On termination of employment the claimant had accrued 260 hours of annual leave.

Viveene Brooks

33. The claimant received £7.93 per hour and was contracted to work 34 hours per week. The claimants gross weekly wage was £269.62. The respondents unlawfully deducted 160 hours pay from the claimant.

34. The claimant worked for the first and second respondents from 1 May 1995 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment subject to a maximum of twelve weeks and is therefore entitled to twelve weeks notice pay.

35. On termination of employment the claimant had accrued 160 hours of annual leave.

Debra Murphy

36. The claimant received £7.93 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £317.20. The respondents unlawfully deducted 190 hours pay from the claimant.

37. The claimant worked for the first and second respondents from 1 June 1995 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment subject to a maximum of twelve weeks and is therefore entitled to twelve weeks notice pay.

38. On termination of employment the claimant had accrued 160 hours of annual leave.

Mark Cowan

39. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 199 hours pay from the claimant.

40. The claimant worked for the first and second respondents from 3 April 2012 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to six weeks notice pay.

41. On termination of employment the claimant had accrued 130 hours of annual leave.

Suellen Wood

42. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 150 hours pay from the claimant.

43. The claimant worked for the first and second respondents from 5 May 2011 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to seven weeks notice pay.

44. On termination of employment the claimant had accrued 100 hours of annual leave.

Dianna Williams

45. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 200 hours pay from the claimant.

46. The claimant worked for the first and second respondents from 29 April 2013 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to five weeks notice pay.

47. On termination of employment the claimant had accrued 230 hours of annual leave.

Janet Dabti

48. The claimant received £7.83 per hour and was contracted to work 40 hours per week. The claimants gross weekly wage was £313.20. The respondents unlawfully deducted 212 hours pay from the claimant.

49. The claimant worked for the first and second respondents from 7 April 2014 – 5 October 2018. In accordance with section 86 of the Employment Rights Act 1996 the claimant is entitled to one weeks notice pay for each complete year of employment and is therefore entitled to four weeks notice pay.

50. On termination of employment the claimant had accrued 230 hours of annual leave.

Employment Judge Ainscough
Date: 8 November 2021

JUDGMENT SENT TO THE PARTIES ON
9 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 shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**Case Numbers 2400060/2019 & others
(see schedule)**

Case Number	Claimant Name
2400060/2019	Mr Daniel Williams
2400062/2019	Mrs Viveene Brooks
2400063/2019	Mrs Debra Murphy
2400064/2019	Mrs Lorraine Cleary
2400065/2019	Miss Suellen Wood
2400066/2019	Mrs Diana Williams
2400067/2019	Mr Mark Cowan
2400068/2019	Mrs Pamela Jennings
2400069/2019	Mrs Caroline Makin
2400070/2019	Mrs Georgina O'Neil
2400071/2019	Mrs Rebecca Jones
2400072/2019	Ms Janet Dabti



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case numbers: **2400060/2019 & Others**

Name of cases: **Mr D Williams & Others** v **1. Mrs C Timmons trading as Hillside Care Home
2. Mr D Timmons trading as Hillside Care Home**

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: 9 November 2021

"the calculation day" is: 10 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

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.