



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss S El-Fargali

**Respondent:** Michael Brown

**HELD AT:** Liverpool ET (via CVP)

**ON:** 9 June 2022

**BEFORE:** Employment Judge McCarthy

## REPRESENTATION:

**Claimant:** In person

**Respondent:** Not in attendance

# JUDGMENT

The judgment of the Tribunal is that:

1. The respondent did not make an unauthorised deduction from wages in relation to wages due for November 2021<sup>1</sup>.
2. The respondent made unauthorised deductions from wages by failing to pay the claimant in lieu of accrued but untaken annual leave on termination of employment and is ordered to pay to the claimant the sum of £1753.26, being the gross sum due.

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<sup>1</sup> In oral judgment the figure of £2404.48 was wrongly given for gross salary due to the Claimant for 1-23 November 2022 (inclusive). The correct figure is £2,462.13, calculated using the following formulation based on the agreed gross annual rate of pay, £39,073.08 / 365 x 23 =£2,462.13. A net salary payment of £2000 was made to the claimant for this period, grossed up for 20% basic rate of tax alone, as the claimant had already exhausted her tax free allowance, (2000/80 x 100=£2500) this would exceed £2462.13 gross due.

3. The respondent was in breach of contract by dismissing the claimant without the six weeks' notice to which she was entitled, and the respondent is ordered to pay the claimant damages of £4,508.40 for that breach, being the gross sum. The award is for net loss but damages has been calculated using agreed gross pay to reflect the likelihood that the claimant will have to pay tax on it as Post Employment Notice Pay.
4. The Respondent is ordered to pay the claimant additional compensation of £1088<sup>2</sup> (that being two week's pay subject to the relevant statutory cap of £544 per week) pursuant to section 38 Employment Act 2002 for failure to provide the claimant with a written statement of employment particulars.

Employment Judge McCarthy

Date: 28 June 2022

JUDGMENT SENT TO THE PARTIES ON  
1 July 2022

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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<sup>2</sup> Section 38 of Employment Act 2002- the amount of a week's pay will not exceed the maximum amount of a week's pay specified in section 227 of the Employment Rights Act 1996 with the calculation date being the effective date of termination.



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2415291/2021**

Name of case: **Miss S El-Fargali** v **Michael Brown**

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: 1 July 2022

"the calculation day" is: 2 July 2022

"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 recoument 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.