



EMPLOYMENT TRIBUNALS

Claimants: Miss B Heys

Respondents: Eyes First UK Ltd

JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

The respondent not having presented a response to the claim and on the information before the Judge,

The judgment of the Tribunal is that the claim of unlawful deduction from wages contrary to section 13 of the Employment Rights Act 1996 is successful and the respondent is ordered to pay the gross sum of **£935.78**.

REASONS

1. The claimant worked for the respondent optician from 15 February 2021 to 30 June 2021 as an optical assistant.
2. The claimant complains that she was paid less than the national minimum wage during her employment with the respondent.
3. The claimant also complains that the respondent failed to pay income tax and national insurance on her behalf to HMRC, despite deducting those amounts from her gross pay.
4. The claimant's date of birth is 20 October 1990.
5. The national minimum wage from 1 April 2020 – 31 March 2021 for those over the age of 25 was £8.72.
6. The national minimum wage from 1 April 2021 – 31 March 2022 for those over the age of 23 was £8.91.
7. The claimant worked 166.5 hours in March 2021 and received gross pay of £1330. This suggests an hourly rate of £7.99. Had the claimant been paid the national minimum wage of £8.72 per hour she would have received £1451.88 in wages. The respondent unlawfully deducted **£121.88** from the claimant's wages in March 2021.

8. The claimant worked 165 hours in April 2021 and received gross pay of £1639. This suggests the claimant received an hourly rate of £9.93. The national minimum wage from 1 April 2021 was £8.91 per hour. The respondent deducted £118 for income tax and £101.05 for national insurance but did not pay these sums to HMRC. The respondent unlawfully deducted **£219.05** from the claimant's wages in April 2021.

9. The claimant worked 150 hours in May 2021 and received gross pay of £1009.95. This suggests at an hourly rate of £6.73. Had the claimant been paid the national minimum wage of £8.91 per hour she would have received gross pay of £1336.50. In addition, the respondent deducted £17.95 for national insurance but did not pay these sums to the HMRC. The respondent unlawfully deducted **£344.50** from the claimant's wages in May 2021.

10. The claimant worked 90 hours in June 2021 and received gross pay of £668.25. This suggests an hourly rate of £7.42. Had the claimant been paid the national minimum wage of £8.91 per hour she would have received gross pay of £801.90. The claimant was granted an income tax refund of £76. The respondent failed to pay the claimant's wages of £57.65 in June 2021.

11. In addition, the respondent failed to pay the claimant statutory sick pay for a period of 10 working days from 17 June 2021 to the 30 June 2021. Whilst the claimant had a fit note for 3 weeks from 17 June 2021, the respondent was only required to pay statutory sick pay during the claimant's employment which ended on 30 June 2021. Had the claimant received statutory sick pay at the rate of £96.35 per week she would have received an additional £192.70 in wages.

12. The respondent unlawfully deducted **£250.35** from the claimant's wages in June 2021.

Employment Judge Ainscough
Date: 24 October 2022

JUDGMENT SENT TO THE PARTIES ON
3 November 2022

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 ARTICLE 12

Case number: **2408074/2021**

Name of case: **Miss B Heys** v **Eyes First UK Ltd**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 3 November 2022

the calculation day in this case is: 4 November 2022

the stipulated rate of interest is: **8% per annum**.

Mr S Artingstall
For the Employment Tribunal Office

GUIDANCE NOTE

1. There is more information about Tribunal judgments here, which you should read with this guidance note:

www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426

If you do not have access to the internet, you can ask for a paper copy by telephoning the Tribunal office dealing with the claim.

2. The payment of interest on Employment Tribunal awards is governed by The Employment Tribunals (Interest) Order 1990. Interest is payable on Employment Tribunal awards if they remain wholly or partly unpaid more than 14 days after the **relevant decision day**. Sums in the award that represent costs or expenses are excluded. Interest starts to accrue from the day immediately after the **relevant decision day**, which is called **the calculation day**.
3. The date of the **relevant decision day** in your case is set out in the Notice. If the judgment is paid in full by that date, no interest will be payable. If the judgment is not paid in full by that date, interest will start to accrue from the next day.
4. Requesting written reasons after you have received a written judgment does **not** change the date of the **relevant decision day**.
5. Interest will be calculated as simple interest accruing from day to day on any part of the sum of money awarded by the Tribunal that remains unpaid.
6. If the person paying the Tribunal award is required to pay part of it to a public authority by way of tax or National Insurance, no interest is payable on that part.
7. If the Secretary of State has claimed any part of the sum awarded by the Tribunal in a recoupment notice, no interest is payable on that part.
8. If the sum awarded is varied, either because the Tribunal reconsiders its own judgment, or following an appeal to the Employment Appeal Tribunal or a higher court, interest will still be payable from **the calculation day** but it will be payable on the new sum not the sum originally awarded.
9. The online information explains how Employment Tribunal awards are enforced. The interest element of an award is enforced in the same way.