



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr E Enwereuzor (1)  
Mrs C Enwereuzor (2)  
**Respondent:** Umbrella Force Global Care Limited

**HELD AT:** Manchester **ON:** 24 March 2023  
**BEFORE:** Employment Judge Johnson  
(Employment Judge Fairhurst observing)

## REPRESENTATION:

**Claimants:** Unrepresented (both attended)  
**Respondent:** Did not attend

# JUDGMENT

Upon hearing the parties:

- (1) The complaints were not presented in time in accordance with section 23(2) Employment Rights Act 1996, but the Tribunal is satisfied that it was not reasonably practicable for complaints under this section to be presented before the end of the relevant period and it is reasonable to extend time to the date when the claim forms were presented.
- (2) The claimants at all material times were employed by the respondent and were therefore employees in accordance with section 230 Employment Rights Act 1996.

- (3) The first claimant's complaint of unlawful deduction from wages (contrary to section 13 Employment Rights Act 1996) is successful and the respondent shall pay the first claimant the sum of **£1151.40 (one thousand, one hundred and fifty one pounds 40 pence)** representing the gross sum of money owed to the first claimant in respect of unpaid wages for shifts worked between 15 to 19 December 2021.
- (4) The second claimant's complaint of unlawful deduction from wages (contrary to section 13 Employment Rights Act 1996) is successful and the respondent shall pay the second claimant the sum of **£600.60 (six hundred pounds 60 pence)** representing the gross sum of money owed to the first claimant in respect of unpaid wages for shifts worked between 18 to 19 December 2021.

## REASONS

1. The respondent company was correctly served with the proceedings by order of Employment Judge Allen dated 14 October 2022 and the claims were combined by his order dated 1 December 2022. The respondent is the sole respondent in these proceedings, was properly served at the current registered office and failed to attend the final hearing today, despite having been given notice of that hearing following a case management hearing before Employment Judge Cowx on 26 January 2023.
2. The claimants had provided the Tribunal with witness statements in support of their claims and accompanied by relevant contractual documentation with the respondent, time sheets for the relevant pay periods which were the subject of the claim and invoices produced for payment by the respondent in relation to the time worked by each claimant.
3. In accordance with the order made by Employment Judge Shotter dated 12 July 2022, the question of whether the complaints of unlawful deduction from wages had been presented in time in accordance with section 23 Employment Rights Act 1996 ('ERA') were considered as a preliminary issue.
4. I accepted that the claimants' employment with the respondent company terminated on or around 20 December 2022 when the respondent failed to pay the claimants their outstanding pay between the dates of 15 to 19 December 2022.
5. The first claim form was not presented to the Tribunal under case number 2404759/2022 until 14 June 2022 and this was rejected by the Tribunal on 29 June 2022 by reason of no early conciliation number having been provided.
6. However, the claim forms of the original claims brought under case numbers 2405049/2022 and 2405056/2022 and which were accepted by the Tribunal, were presented on 4 July 2022 following early conciliation taking place on the same day.

7. Accordingly, it would appear that the claim forms were presented more than 3 months following the date when unpaid wages accrued contrary to section 23(2) ERA and were presented out of time.
8. However, the claimants were able to persuade me that it was not reasonably practicable for the complaints to be presented before the end of the relevant period of 3 months required by section 23(2) and I therefore concluded that it was in the interests of justice to consider that time be extended so that the complaints presented on 4 July 2022 were presented in time.
9. This was based upon the claimants being Nigerian by birth and not having familiarity of the courts and tribunals system in relation to the recovery of unpaid wages for work carried out for an employer until these complaints arose. The first claimant who was effectively acting on behalf of his wife provided documentary evidence of corresponding with the respondent seeking to recover the unpaid wages as soon as they became due and liaising with the company who placed them at the Christie hospital (Pulse) in order that pressure could be exerted upon the respondent to pay. The respondent clearly avoided engaging with the claimants or Pulse and the first claimant even travelled to their registered office at the time in London in February or March 2022, but discovered that this was a virtual office and the host business would not put him in contact with the respondent.
10. The claimant made enquiries with the Police who referred him to the Citizens Advice Bureau whom he made frequent attempts to contact during lunchbreaks and which took some time before he could obtain advice and assistance concerning the correct way to bring Tribunal proceedings. In the meantime, the first claimant attempted to bring a civil money claim, but was unfortunately prevented from proceeding because of confusion regarding the correct registered office for the respondent.
11. While the claimants presented a claim form on 14 June 2022 and did not understand that an ACAS early conciliation number was required, within days of it being rejected, they correctly notified ACAS, obtained an early conciliation number and presented their claim forms, all on 4 July 2022.
12. Accordingly, I am satisfied that despite significance unfamiliarity with the courts and tribunals systems, the claimants did everything they could to recover the outstanding wages from the respondent, the respondent was evasive in responding to their requests for recovery and they did everything reasonable to discover what litigation was available to them and correcting any misunderstandings that they initially had quickly and resubmitting their claims.
13. Both claimants gave convincing evidence under oath and also referred to documentary evidence which on balance of probabilities, demonstrated that they were employed by the respondent at the material time in accordance with section 230 ERA. The first claimant commenced employment on 19 August 2021 and the second claimant commenced employment on 24 August 2021.

14. Both claimants also gave convincing evidence under oath and also referred to documentary evidence including time sheets for the dates in question and invoices for those dates with the pay calculated to be paid applying the appropriate rates for the dates worked.
15. I accepted that the claimants employed by the respondent who were an 'umbrella' company which allowed them to be placed into work at the Christie hospital in Manchester by a care company called Pulse. Pulse would process the time sheets which they worked and submit the details to the Christie for payment and in turn, they would pay the respondent in order that they would deduct income tax and national insurance before paying the claimants. It is understood that this system is commonplace and enables companies using workers such as the claimants to have confidence that they will pay their statutory deductions and thereby avoid issues arising with HMRC.
16. Both claimants gave convincing evidence that they worked shifts in December 2021 and that the payments were made by Pulse for the time worked to the respondent, but the respondent had not at the date of this hearing, paid the claimants for the time worked.
17. The first claimant on balance of probabilities was found to have worked on 15, 16, 17, 18 and 19 December 2021 and was owed from the respondent, £1151.40 gross in unpaid wages.
18. The second claimant on balance of probabilities was found to have worked on 18 and 19 December 2021 and was owed from the respondent, £660.60 gross in respect unpaid wages.
19. Accordingly, the claimants' complaints of unlawful deduction from wages contrary to section 13 ERA are well founded and succeed.

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Employment Judge Johnson

Date 24 March 2023

JUDGMENT SENT TO THE PARTIES ON  
3 April 2023

FOR THE TRIBUNAL OFFICE



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2405049/2022, 2405055/2022 & 2405056/2022**

**Mr E Enwereuzor & Mrs C Enwereuzor v Umbrella Force Global Care 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 decision day" is: 3 April 2023

"the calculation day" is: 4 April 2023

"the stipulated rate of interest" is: **8%**

Mr P Guilfoyle  
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/collections/employment-tribunal-forms](http://www.gov.uk/government/collections/employment-tribunal-forms)

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.