



EMPLOYMENT TRIBUNALS

Claimant: Mr O Mohamed

Respondent: Red Fortuna Limited, trading as Ciao Baby Restaurant (in creditors voluntary liquidation)

Heard at: Manchester Employment Tribunal (in person)

On: 19 May 2023

Before: Employment Judge M Butler

Representation

Claimant: Self-representing, with Mr F Qasem (interpreter)

Respondent: Non-attendance

JUDGMENT

Unauthorised deduction from wages claim

1. The complaint of unauthorised deductions from pay contrary to Part II Employment Rights Act 1996 is well-founded. The respondent made an unauthorised deduction from the claimant's pay in respect of his final week's pay. The respondent is ordered to pay to the claimant the gross sum of £300 deducted from pay.

Breach of contract/notice pay

2. The complaint of breach of contract in relation to notice pay is well-founded. The respondent is ordered to pay the claimant the gross sum of £2,700 as damages for breach of contract. This is calculated based on the claimant having completed 9 years continuous service for the respondent, and therefore was entitled to a 9-week notice period.
3. This figure has been calculated using gross pay to reflect the likelihood that the claimant will be taxed upon it as Post Employment Notice Pay.

Holiday Pay

4. The complaint in respect of holiday pay is well-founded. The respondent made an unauthorised deduction from the claimant's pay by failing to pay

holiday pay and is ordered to pay the claimant the gross sum of £900. This is equivalent to 3 weeks' holiday pay.

Unfair dismissal

5. The claimant did not make a protected disclosure pursuant to s.43B of the Employment Rights Act. The claim of automatic unfair dismissal does not succeed.
6. However, the complaint of unfair dismissal under Part X Employment Rights Act 1996 is well-founded. The claimant was unfairly dismissed. The respondent is ordered to pay the claimant the following:
 - a. A basic award in the sum of £2,700
 - b. A compensatory award in the sum of £2,469.72
7. The calculation for the unfair dismissal award is contained at annex 1 to this judgment.
8. The recoupment regulations do not apply. This is as a result of the concurrent wrongful dismissal/unfair dismissal claim.

Employment Judge **M Butler**

Date: 19 May 2023

JUDGMENT SENT TO THE PARTIES ON

Date: 31 May 2023

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FOR THE TRIBUNAL OFFICE

Notes

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.

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

Tribunal case number: **2402810/2021**

Mr O Mohamed v Red Fortuna Limited, trading as Ciao Baby Restaurant (in creditors voluntary liquidation)

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: 31 May 2023

"the calculation day" is: 1 June 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

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.