



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Woolland

**Respondent:** DW Gas Services Limited

**HELD AT:** Manchester (by CVP)

**ON:** 12 June 2023

**BEFORE:** Employment Judge Johnson

## REPRESENTATION:

**Claimant:** Mr B Jangra (counsel)

**Respondent:** No representative attended

# JUDGMENT

The judgment of the Tribunal is that:

## Considering the claims together

- (1) The claims brought under case numbers: 2410314/2022 and 2402529/2023 are combined and were considered together at this final hearing.
- (2) The respondent named in the first claim presented under case number 2410314/2022 is corrected from 'David White' to the correct name of 'DW Gas Services Limited', which was used in the second claim presented under case number 2402529/2023.

## The correct identity of the respondent

- (3) As DW Gas Services Limited has its registered office at the same as Mr White's home address and Mr White is the sole director of this limited company, the Tribunal must conclude that Mr White was aware of the two claims and the final hearing listed for today. Accordingly, it was in the interests of justice to proceed with the hearing in his absence.

The withdrawn complaints

- (4) The complaint of unfair dismissal is dismissed upon withdrawal by the claimant.
- (5) The complaint of holiday pay is dismissed upon withdrawal by the claimant.

The successful complaints which could be quantified at the final hearing

- (6) The claimant was employed by the respondent as an employee (and a worker), in accordance with section 230(1) Employment Rights Act 1996.
- (7) The complaint of unlawful deduction from wages contrary to section 13 Employment Rights Act 1996 is well founded and succeeds and the respondent must pay the claimant the sum of £4247.00 in settlement of this successful complaint.
- (8) The complaint of breach of contract is well founded and succeeds and the respondent must pay the claimant the sum of £273.20 reflecting the 1 week's statutory notice in accordance with section 86 Employment Rights Act 1996.
- (9) The complaint of a failure by the respondent to provide a written statement of terms and conditions contrary to sections 1 and 11(1) Employment Rights Act 1996 is well founded and succeeds. The respondent has continuously failed to provide any written statement of particulars since the claimant's employment began on 2 August 2021 and it is therefore just and equitable to make an award of 4 weeks pay in the sum of £1092.80 which the respondent must now pay.

Total amount payable by the respondent in respect of the quantifiable complaints

- (10) Taking into account the sum of these successful complaints which can be quantified at the final hearing today, the respondent must pay the claimant the total sum of £5613.00 in settlement of the successful complaints identified in paragraphs (7), (8) and (9), above.

The complaint made in respect of a failure to provide a written pay statement

- (11) The claimant has one further successful complaint which could not be quantified at the final hearing today and this relates to the respondent's failure to provide any itemised pay statements contrary to sections 8 and 11(2) Employment Rights Act 1996. This complaint is nonetheless well founded and succeeds.
- (12) In order that all unnotified deductions made from the pay of the claimant during the period of employment can be calculated, the respondent must provide the Tribunal and the claimant within 14 days from the date this judgment is sent to the parties, details of all deductions made during his employment and all documentation in support of the figures identified by the respondent.

- (13) Once this information has been provided, consideration will be given by the Tribunal concerning whether the documentation provided by the respondent is sufficient for a determination of whether the respondent should pay the claimant a sum not exceeding the aggregate of the unnotified deductions without the need for a further remedy hearing attended by the parties.
- (14) The director of the respondent company Mr White, must understand that he is required to provide the documentation identified in paragraph (12) above and if he fails to do so within the time provided, the Tribunal will give consideration to imposing further sanctions which could included an order for costs in accordance with Rule 76 of the Tribunal's Rules of Procedure arising from any unreasonable conduct on the part of the respondent.

## REASONS

### Introduction

1. These proceedings arose from the claimant's apprenticeship with the respondent company, and which began on 2 August 2021 and ended on 4 October 2022.
2. The claimant was initially unrepresented, and he presented a claim form under case number: 2410314/2022 to the Tribunal on 22 December 2022 following a period of early conciliation from 5 November 2022 to 17 December 2022, naming David White as his employer.
3. Once he became legally represented, the claimant presented a second claim form under case number: 2402529/2023 on 10 February 2023 (and relying upon the existing early conciliation certificate), naming DW Gas Services Limited as the respondent.
4. It was noted that Mr White was the sole director of the respondent company and its registered office was identical to his home address. On balance, it was reasonable to conclude that Mr White would have been aware of the two claims brought against him and his company respectively.
5. A response was not presented in respect of either claim. The respondents were made aware of the hearing today and failed to attend. Time was allowed with half an hour being spent at the beginning of the hearing discussing the case generally, in order that the respondents had time to join the hearing. They still failed to do so and I determined that it was in the interests of justice to proceed with the final hearing in the absence of the respondents as they had not provided any response or any reason for their non-attendance.

6. In the absence of any grounds of resistance being presented and no evidence being produced by the respondent at the final hearing today, there was no challenge or reistance by the respondent to the claimant's allegations.
7. Mr Jangra who represented the claimant referred me to a final hearing bundle and a witness statement produced by the claimant, Mr Woolland, who gave witness evidence under oath and answered questions concerning the case.
8. As a preliminary issue, I was satisfied that both claim forms should be considered together and the respondent's name in the first claim, should be varied to DW Gas Services Limited which reflected the correct name given in the second claim. This was in the interests of justice and in accordance with the overriding objective.

### **Issues**

9. The claimant agreed to withdraw the complaints of unfair dismissal and holiday pay and these complaints were dismissed accordingly.
10. The remaining complaints were unlawful deduction from wages, breach of contract/notice pay, failure to provide a written statement of particulars and any pay statements during the period of employment. In relation to the failure to provide itemised pay statements, the respondent's absence meant that the quantification of this complaint could not be determined today.

### **Findings of fact in relation to the complaints brought**

11. The respondent is a company which has Mr White as the sole director. Its registered office is based at his home address and remains active on the Companies House website. It is understood that Mr White is a registered gas fitter and was interested in 2021 in takin on an apprentice gas fitter.
12. The claimant Mr Woolland was 18 years old in the summer of 2021 and wished to progress from his plumbing apprenticeship being undertaken at Riverside College to a gas fitting apprenticeship. The College has received an expression of interest to recruit an apprentice from Mr White on behalf of his company and they were put in touch with each other in August 2021.
13. On 2 August 2021, Mr White and Mr Woolland entered into a verbal agreement to begin a gas fitting apprentice. Minimal particulars were agreed with an hourly rate in the first year being £5 per hour and an average working week of 40 hours. No statement of written statement of particulars was ever provided by Mr White. However, it was clear that Mr Woolland entered into a contract of employment with DW Gas Services Limited.
14. On 17 September 2021, the parties and the apprenticeship course provider Paula Haigh signed an agreement to enter into an apprenticeship agreement. However, this did not amount to a statement of particulars between DW Gas Services and Mr Woolland. The document did however, confirm that Mr Woolland was entitled to minimum wages as an apprentice and the £5 per

week figure would increase upon the completion of his first year of apprenticeship.

15. Mr Woolland continued to work for Mr White and during the period of his employment he did not receive any itemised statements of wages and was not aware of the amounts or particulars of deductions made during this employment. It is not clear why Mr White failed to provide these statements on behalf of DW Gas Services.
16. Although Mr Woolland did receive pay from DW Gas Services by way of bank transfer, these payments were irregular and did not reflect the entirety of his hours worked. Moreover, he did not pay the hourly rate increase of £6.83 payable in his second year from August 2022. By the time of his dismissal, he had received £8885 in wages from DW Gas Services but should have received £13132. Having heard Mr Woolland's evidence and considering the documents produced today, I find on balance of probabilities that he should have been paid the net figure of £4247.
17. Mr White decided to terminate Mr Woolland's employment on 4 October 2022 and relied upon:
  - a) a verbal warning which he claims was given on 13 September 2022 when Mr Woolland called at 7:20am to say he was not well and could not come into work.
  - b) A written warning which he claims was given to Mr Woolland on 14 September 2022 for returning to work following illness and without informing Mr White of his return.
  - c) A final written warning in respect of Mr Woolland deciding to work for a builder whom Mr White had contracts with without informing him and while they were both away on annual leave between 16 and 23 September 2022.

The decision was given to Mr Woolland in an undated letter which he received on 4 October 2022 and was described as '*Disciplinary for: Jack Woolland*'.

18. I was not satisfied on balance of probabilities that Mr Woolland behaved as alleged and would say the following:
  - a) Mr Woolland was not given any particulars during his employment concerning the way in which sickness absence should be reported and at its highest, an informal discussion took place following his return to work concerning the way he should report sickness absence in future. It was not described as a disciplinary matter at the time it took place.
  - b) No written warning was given concerning the way in which Mr Woolland should return to work by Mr White following a period of illness and it no particulars had been provided at an earlier date.
  - c) No final written warning was given by Mr White to Mr Woolland when he worked for the builder Paul Critchley while Mr White was away on annual leave. An existing arrangement was quite reasonably relied upon by Mr Woolland where he would work for Mr Critchley when Mr White was away.

This was the case during the week commencing 16 September 2022 when Mr Woolland was only absent on one day during that week. No final written warning was sent and instead a *'foul mouthed'* WhatsApp message was sent to him by Mr White, and it is disappointing that he behaved this way towards an apprentice.

19. Although Mr White did start to question their working relationship towards the end of September 2022, there was no unequivocal dismissal communicated until 4 October 2022, when he verbally and summarily dismissed Mr Woolland because he had *"...come to the conclusion that he had to let [Mr Woolland] go."*
20. No minimum notice was given and since the date of termination on 4 October 2022, the unpaid wages remained unpaid, no written statement of particulars was provided and no itemised pay statements have been provided.

## Conclusion

21. These reasons have been provided because the respondent was not present at the final hearing and are produced in order that they (effectively Mr White), can understand why the claimant's claim has succeeded. Had he believed there were reasonable grounds to resist the complaint a response could have been provided and evidence could have been produced in documentary form and given orally from appropriate witnesses at the final hearing today. The fact that he has failed to do so, can only leave me to conclude that he does not wish to or is unable to resist the complaints brought.
22. It is unfortunate that Mr White has failed to treat what is such an important working relationship so lightly. The training of young people in trades and thereby passing on your own accrued knowledge is a privilege and it is extremely disappointing that Mr White has behaved in the way that he has. It is hoped that he will now comply with the judgment described above and without delay in order that this unfortunate case can now be brought to a close.

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Employment Judge Johnson

Date 12 June 2023

JUDGMENT SENT TO THE PARTIES ON  
16 June 2023

FOR THE TRIBUNAL OFFICE



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2410314/2022 & Other**

Name of case: **Mr J Woolland** v **DW Gas Services Limited**

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: 16 June 2023

**the calculation day** in this case is: 17 June 2023

**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](https://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.