



EMPLOYMENT TRIBUNALS

Claimant: Mr Barry Swift

Respondent: Amazing Glazing (Widnes) Limited

Heard at: Liverpool

On: 18 July 2023

Before: Employment Judge Aspinall

Representation

Claimant: in person

Respondent: did not attend

JUDGMENT

1. The claimant's complaint of unfair dismissal is well founded and succeeds.
2. The claimant's complaint of breach of contract notice pay is well founded and succeeds.
3. The claimant's complaint for outstanding holiday pay is well founded and succeeds.
4. The claimant's complaint of unauthorised deduction from wages for one week's pay worked in hand is well founded and succeeds.
5. The claimant is one of four claimants whose complaints have been combined. The other claimants had not sent the information needed to quantify their claims so their final hearings had been postponed. I have written to the other claimants today, given direction and listed a final hearing for them.
6. I heard oral evidence from the claimant. I find the following facts.
7. He worked for the respondent as a window fitter from 17 September 2016 until his dismissal. He earned £427.50 gross pay per week and £ 355.66 net pay per week. He was dismissed by text message from Michael James on 9 February 2023. The text message said that the company was being

placed in the hands of a receiver. The claimant attended the company office premises on 10 February 2023 and found them locked up. The claimant is aware of the respondent continuing to trade because he is aware of jobs that he measured being fitted by sub-contractors after the date of his dismissal.

8. When he was dismissed he was due a week's pay worked in hand and three week's outstanding holiday pay.
9. He went to ACAS on 6 March 2023 and brought his tribunal complaint on 8 March 2023. The claimant had a trial period for a new job and earned £ 750 but did not get the job. He had Universal Credit in the total sum of £ 1536.74 before getting a new job on 22 May 2023.
10. The respondent failed to file a response to his claim. It is an active limited company with sole director Michael James. It has been served with the claim and when it did not respond it was informed that it may not do so other than on remedy to the extent permitted by the judge hearing the case. The claimant sent the respondent, by post to its registered office address, the breakdown of the amounts he seeks on 31 May 2023 and it has not responded to that information. The respondent was served with notice of today's hearing and has not joined the CVP link nor attended in person.
11. Applying relevant law in the Employment Rights Act 1996 and Working Time Regulations 1998 and Employment Tribunals Extension of Jurisdiction Order 1994;

The claimant is awarded a total amount of £ 9357.12 as set out below.

<u>A basic award</u>		£
6 years service over age 21 and under age 41		
6 x gross week's pay £ 427.50 plus		2 565
<u>A compensatory award</u>		
Immediate loss of earnings from date of dismissal		
To date of hearing		
The claimant was entitled to 6 week's notice pay		
6 week's net pay for <u>breach of contract</u>		
355.66 plus		2133.96
14 weeks at £ 427.50 <u>loss of earnings</u> less the		
6 weeks paid as notice pay is		
8 weeks at 427.50	3420.00	
Less earnings	750.00	2670.00
plus		
<u>Loss of statutory rights</u>		
The claimant is awarded plus		350.00
<u>Unauthorised deduction from wages</u>		

One week's net pay worked in hand plus	355.66
<u>Outstanding holiday pay</u>	
3 weeks outstanding annual leave gross	1282.50
Giving a total award of	9357.12

Recoupment

The claimant received universal credit.

The claimant says the total he received was £ 1536.74

The state will identify the amount of benefits paid and recover from the respondent the value of the benefit paid to the claimant.

- (i) The prescribed element of this award is £ 2670.00
This is the sum from which the state may seek recoupment

The respondent is ordered to pay the balance of the prescribed element after recoupment to the claimant (£ 2670 – 1536.74 = £1133.26 or such other amount as the state identifies)

- (ii) The prescribed period for this award is 9 February 2023 – 18 July 2023
- (iii) The total amount of the award is £ 9357.12
- (iv) The balance the respondent is ordered to pay to the claimant is
£ 6687.12 (together with in due course the balance at (i) above.

Employment Judge Aspinall
Date: 18 July 2023

JUDGMENT SENT TO THE PARTIES ON
27 July 2023

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.

ANNEX TO THE JUDGMENT (MONETARY AWARDS)

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The Tribunal has awarded compensation to the claimant, but not all of it should be paid immediately. This is because the Secretary of State has the right to recover (recoup) any jobseeker's allowance, income-related employment and support allowance, universal credit or income support paid to the claimant after dismissal. This will be done by way of a Recoupment Notice, which will be sent to the respondent usually within 21 days after the Tribunal's judgment was sent to the parties.

The Tribunal's judgment states: (a) the total monetary award made to the claimant; (b) an amount called the prescribed element, if any; (c) the dates of the period to which the prescribed element is attributable; and (d) the amount, if any, by which the monetary award exceeds the prescribed element. Only the prescribed element is affected by the Recoupment Notice and that part of the Tribunal's award should not be paid until the Recoupment Notice has been received.

The difference between the monetary award and the prescribed element is payable by the respondent to the claimant immediately.

When the Secretary of State sends the Recoupment Notice, the respondent must pay the amount specified in the Recoupment Notice to the Secretary of State. This amount can never be more than the prescribed element of any monetary award. If the amount is less than the prescribed element, the respondent must pay the balance to the claimant. If the Secretary of State informs the respondent that it is not intended to issue a Recoupment Notice, the respondent must immediately pay the whole of the prescribed element to the claimant.

The claimant will receive a copy of the Recoupment Notice from the Secretary of State. If the claimant disputes the amount in the Recoupment Notice, the claimant must inform the Secretary of State in writing within 21 days. The Tribunal has no power to resolve such disputes, which must be resolved directly between the claimant and the Secretary of State.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2403177/2023**

Name of case: **Mr B Swift** v **Amazing Glazing
(Widnes) 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: 27 July 2023

the calculation day in this case is: 28 July 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

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.