



# EMPLOYMENT TRIBUNALS

**Claimant:** (1) Miss D Bendar  
(2) Mr J Sumner

**Respondent:** (1) On Electrical Contractors Ltd (in creditors voluntary liquidation)  
(2) On Electrical Contractors and Services Ltd  
(3) Secretary of State for Business Energy and Industrial Strategy

**Heard at:** CVP **On:** 19 February 2024

**Before:** Employment Judge Ainscough

## Representation

First Claimant: in person  
Second Claimant: not in attendance  
First Respondent: not in attendance  
Second Respondent: not in attendance  
Third Respondent: Ms Ware – lay representative

# JUDGMENT

1. There was a relevant transfer between the first respondent and the second respondent on 21 October 2022 in accordance with regulation 3(1)(a) of the Transfer of Undertakings (Protection of Employment) Regulations 2006.
2. There was a resolution to wind up the first respondent on 31 October 2022 and liquidators were appointed.
3. The first and second claimants therefore have no right to payment from the third respondent in accordance with part 12 of the Employment Rights Act 1996.
4. The second respondent is liable for monies owed to the first and second claimants as a result of the relevant transfer.

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5. The second respondent is ordered to pay the first claimant the gross sum of **£6000** for unlawful deduction from wages from 15 August 2022 until 21 October 2022 in accordance with section 13 of the Employment Rights Act 1996.
6. The first claimant's claims for redundancy pay and accrued holiday pay on termination of employment are dismissed because the first claimant's employment transferred to the second respondent on 21 October 2022.
7. The second respondent is ordered to pay the second claimant **£10,278** as redundancy payment in accordance with section 135 of the Employment Rights Act 1996. The second claimant worked for the first respondent for 12 years. The second claimant was over the age of 41 for the duration of his employment with the first respondent and is therefore entitled to 1.5 weeks gross pay, capped at £571, for each year of employment.
8. The second respondent is ordered to pay the second claimant the gross sum of **£4108.56** in accrued holiday pay on termination of employment in accordance with regulation 14 of the Working Time Regulations 1998. The first respondent's holiday year ran from 1 January – 31 December. On termination of employment 80% of the leave year had expired and the second claimant had not taken any holidays. The second claimant was entitled to 30 days holiday each year. The second claimant had accrued 24 annual leave days on termination of employment. The claimant's daily rate of pay was £171.19.

Employment Judge Ainscough

Date 21 February 2024

JUDGMENT SENT TO THE PARTIES ON

7 March 2024

FOR THE TRIBUNAL OFFICE

**Note**

Written reasons will not be provided unless 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](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

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## NOTICE

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

Case numbers: 2403442/2023, 2403434/2023, 2403433/2023, 2403443/2023

Name of cases: **Miss D Bendar** v **1. On Electrical Contractors Limited (In Voluntary Liquidation)**  
**Mr J Sumner** v **2. On Electrical Contractors and Services Limited**  
**3. The Secretary of State for Business, Energy and Industrial Strategy**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party 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: 7 March 2024

**the calculation day** in this case is: 8 March 2024

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

For the Employment Tribunal Office