



EMPLOYMENT TRIBUNALS

Claimant: Mrs J Herling

Respondents: 1. S&M Herling Limited
2. Stefan Herling

HEARD AT: Manchester

On: 15, 16, 18, 19 April 2024
and 20 May 2024

BEFORE: Employment Judge Batten
A Ramsden
T D Wilson

REPRESENTATION:

For the Claimant: S Roberts, litigation friend

For the Respondent: L Hatch, Counsel

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. the complaint of unfair dismissal is well founded. The first respondent is ordered to pay to the claimant compensation of **£5,281.16**, comprising a basic award of £4,023.16 and a compensatory award of £1,258.00;
2. the claimant was wrongfully dismissed, and the first respondent is ordered to pay to the claimant damages in the sum of **£2,099.04** for lack of notice;
3. the first respondent made unauthorised deductions from the claimant's pay in the gross sum of **£874.60**;
4. the complaint about unpaid holiday entitlement is not well-founded and is dismissed;
5. the complaint about a failure to pay the claimant at the applicable national minimum wage rate is dismissed, the Tribunal having found that the claimant's employment fell within the exception in Regulation 58 of the National Minimum Wage Regulations 2015;

6. The first respondent was in breach of its duty to provide the claimant with a written statement of employment particulars. In accordance with section 38 of the Employment Act 2002, the Tribunal awards 2 weeks gross pay, being **£349.84** for such default;
7. the complaint of victimisation is well-founded and succeeds. The Tribunal awards the sum of **£1,072.30** for injury to feelings which includes interest of £72.30 calculated in accordance with the provisions of The Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996. The respondents are jointly and severally liable for this award.

Employment Judge Batten
20 May 2024

JUDGMENT SENT TO THE PARTIES ON:
31 May 2024

FOR THE TRIBUNAL OFFICE

Note:

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.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2403662/2023**

Name of case: **Mrs J Herling** v **S&M Herling 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: 31 May 2024

the calculation day in this case is: 1 June 2024

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.