



EMPLOYMENT TRIBUNALS

Claimant: Mr O Wilhelm

Respondent: Bon Appetit Foodie Ltd

Heard at: Manchester by CVP

On: 16 September 2024

Before: Judge Lloyd

Representation

Claimant: Mr O Wilhelm, in person

Respondent: No attendance

JUDGMENT

1. This was an uncontested hearing. The Respondent has played no part in this claim to date.
2. The Respondent made unauthorized deductions from the Claimant's wages. He was not allowed to take a lunch break but had 30 minutes deducted from his pay for each day he worked. Deductions from wages can be backdated for a two-year period. The Claimant worked 260 days in 2022. He was paid the minimum wage. The national minimum wage in 2022 was £9.18 an hour. Half an hour for 2022 was £4.59. £4.59 multiplied by 260 days amounts to **£1,193.40** gross pay. The Claimant worked 236 days in 2023. The national minimum wage was £10.42 in 2023. 30 minutes pay was £5.21. £5.21 multiplied by 236 days amounts to **£1,229.56** gross pay. This is a total of £

3. The Respondent failed to provide the Claimant with a written statement of the main terms of his employment in accordance with section 1 of the Employment Rights Act 1996. Two weeks pay compensation should be paid for this failure by the Respondent.
4. The Claimant's claim for unpaid holiday pay accruing on the termination of his employment succeeds. He had not taken any leave during his last leave year. and the Respondent shall pay to the Claimant **£2,625.84** representing 28 days pay (£10.42 multiplied by 9 hours multiplied by 28 days).
5. The Claimant's complaint of direct race discrimination described in para 27.1.1 and 27.1.2 of the case management order of 16 May 2024 is well founded and succeeds. The Claimant's complaint of age discrimination is not made out and is dismissed.
6. The Respondent must pay compensation of **£1,500** (for injury to feelings) to the Claimant.
7. The Respondent must pay compensation of **£1,500.48** for loss of salary when his working days were cut from 5 to 3 days for the period 1 October 2023 to when his employment ended on 28 November 2023 (9 hours multiplied by £10.42 multiplied by 16 days). The Tribunal accepts that the Claimant had his hours cut to allow Urdu speaking workers to have more shifts. The Claimant does not speak Urdu. He was treated less favorably due to his race as a result. The Tribunal found the Claimant to be a credible witness and accepted his evidence on how he was treated differently from other workers who spoke Pakistani Urdu.
8. The Respondent must pay the Claimant **£8,987.08** comprising:
 - a) £2,422.96 for unlawful deductions from wages in respect of lunch breaks from which any tax and national insurance fall to be deducted
 - b) £2,625.84 for untaken holidays from which any tax and national insurance fall to be deducted

- c) Compensation for injury to feelings in the sum of £1,500
- d) Compensation in the sum of £1,500.48 for his reduction in shifts from which any tax and national insurance fall to be deducted.
- e) Compensation in the sum of £937.80 for failure to give him a contract of employment.

Employment Judge **R. Lloyd**

16 September 2024

JUDGMENT SENT TO THE PARTIES ON

19 September 2024

FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2411650/2023**

Name of case: **Mr O Wilhelm** v **Bon Appetit Foodie Ltd**

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: **19 September 2024**

the calculation day in this case is: **20 September 2024**

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

For the Employment Tribunal Office