



EMPLOYMENT TRIBUNALS

Claimant: Mr D Puttock

Respondent: Kego Limited

Heard at: Liverpool

On: 12 March 2025

Before: Employment Judge Barker

REPRESENTATION:

Claimant: in person

Respondent: no attendance

JUDGMENT

1. The claim for unpaid wages, which were sums for unpaid annual leave on termination of employment, succeeds.
2. The respondent is to pay to the claimant the sum of £1247.40 immediately, comprised of 92.4 hours leave at an hourly rate of £13.50.

REASONS

Preliminary matters and issues for the Tribunal to decide

1. The claimant was a restaurant supervisor at the respondent's pub, The Freemason's Arms in Wiswell, Clitheroe, from 8 March 2024 until 25 July 2024. He claims for unlawful deductions from wages in the form of accrued but unpaid holiday pay, which was outstanding at the end of his employment.
2. The respondent submitted a response to the claimant's claim in the form of an ET3 response form, which was almost entirely blank save for the respondent's name and postal address, and the name of "Nicholas White". They also ticked the box indicating that they resisted the claim, but did not provide any details as to why.
3. A Notice of Hearing was sent to the respondent by letter on 21 October 2024 along with the notice of claim. As the respondent responded to the claim, so must it also have had notice of the hearing.

4. The claimant attended in person and gave evidence under oath to the Tribunal. His evidence was that Nick White was the de facto manager of the company, although his wife Margaret White was named as a director of the company at Companies House. All day-to-day operations of the pub were carried out by Nick White.
5. The claimant told me that Nick White, on Friday 28th February 2025, attempted to intimidate him into withdrawing the claim by sending him a threatening text message. In that message, Nick White told the claimant that they had received the information from the Tribunal about the claim, but if the claimant continued to pursue it, that he would pursue a “civil action” against the claimant. I accept the claimant’s evidence in this regard. This was, I find, a clear attempt to threaten and intimidate the claimant and to interfere with the proceedings.
6. Fortunately, Mr White’s attempt to deter the claimant from pursuing his claim did not succeed, and the claimant attended the hearing today. However, the message was, I find, highly unreasonable and unpleasant and caused the claimant distress, which it is assumed it was intended to do.
7. I was able to inform the claimant that the notion of a “civil action” being available to punish those who attempted to lawfully enforce their employment rights in a Tribunal was an entirely fanciful assertion, as no such action exists.
8. The text message from Nick White on 28 February 2025 also served the purpose of confirming that the respondent was indeed fully aware of the hearing taking place today, but chose not to attend.
9. Employment Judge Dunlop wrote to the respondent on 6 February 2025, asking them if they accepted that the amounts in the claimant’s payslip from July 2024 were owed to him and if so, why this had not been paid. She reminded them that if the matter proceeded to a hearing and they were found to have acted unreasonably in defending the claim, costs could be awarded to the claimant on top of the judgment sum. The respondent did not reply to this letter.
10. As they had provided no information or evidence to refute the claimant’s claim, despite having opportunity to do so, the claimant’s sworn evidence was considered by me, along with his claim form and a pay slip he submitted in evidence, and an award made in his favour.
11. I considered whether or not to award the claimant costs on account of the respondent’s conduct but declined to do so. I considered whether the threshold for unreasonable conduct on the part of the respondent had been met (as per the Employment Tribunal Rules of Procedure 2024, rule 77) and concluded that it likely had. The claimant was appearing in person and so would have been able to recover preparation time at £44 per hour, but not for time spent attending the hearing. As very little preparation had been done for the hearing, I declined to award costs to the claimant, as the amount would have been very small indeed.
12. The claimant has been provided with information along with this judgment about how to enforce the award against the respondent, in the event of non-payment by them, via the County Court bailiff’s office.

Findings of Fact

13. The claimant worked for the respondent from 8 March 2024 until 25 July 2024. He worked full-time, 5 days per week. He worked between 40 and 45 hours per week. He took no annual leave while he worked there, including over the Easter bank holiday weekend, which he worked.
14. When he left the respondent's employment, the respondent's accountants sent him a payslip dated 12 July 2024, which he provided as evidence to the Tribunal. This clearly indicated that he had not taken holiday during his employment and indicated that he was owed 63.28 hours pay, which at the claimant's hourly rate of £13.50 was £854.28 before tax and National Insurance.
15. The respondent has never paid this to the claimant. The claimant gave evidence that in fact Nick White and he discussed this payslip, during which discussion Mr White became aggressive and abusive and said that the payslip had been sent by his accountants by mistake, and he was not going to pay the money to the claimant. By "mistake", I do not find that the money was not owed to the claimant, but that Nick White had intended to not disclose that the claimant was entitled to it.
16. During the hearing, it was possible to check whether the holiday pay in the payslip was in fact the amount that had been accrued by the claimant and was the correct amount owed. I find that it was not. The claimant's explanation for this, which I accept, was that Nick White provided all of the information about his working hours to the accountants himself and had likely under-reported the claimant's working hours.
17. For the purposes of this calculation, I have assumed that the claimant worked 43 hours per week. In his claim form, he had said 45 hours per week. The respondent provided no information to correct or challenge this. However, the claimant told me during our discussion that sometimes he worked 40 hours per week. I have therefore adjusted the amount down to account for this.

The Law

18. Part II of Employment Rights Act 1996, s13, provides that an employee has a right not to suffer unauthorised deductions from their wages.
19. Regulation 14 of the Working Time Regulations 1998 provides that an employee must receive payment on termination of their employment for annual leave that was accrued during the leave year but remains untaken.
20. Regulations 13 and 13A Working Time Regulations 1998, taken together, provide that employees are entitled to 5.6 weeks paid annual leave per year.

Application of the law to the facts found

21. The claimant worked 5 days per week, on average 43 hours per week, and earned £13.50 per hour. He did not take any paid annual leave during his employment. He therefore accrued 92.4 hours' holiday entitlement, which was outstanding at the end of his employment and has not been paid to him since.

22. The respondent must pay him $92.4 \times \text{£}13.50 = \text{£}1247.40$ gross, and the claimant has been advised to account to HMRC for any tax and National Insurance he may owe on this amount.

**Employment Judge Barker
12 March 2025**

Judgment sent to the parties on:

17 March 2025

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For the Tribunal:

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: **6014769/2024**

Name of case: **Mr D Puttock** v **Kego Limited**

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: **17 March 2025**

the calculation day in this case is: **18 March 2025**

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

Paul Guilfoyle
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.