



EMPLOYMENT TRIBUNALS

Claimant

Mr D Kohli

Respondent

Destination 2 Limited

v

Heard at: Liverpool (by CVP)

On: 3 February 2025

Before: Judge Johnson

Appearances

For the Claimants: did not attend

For the respondent: Mr D Walton (solicitor).

JUDGMENT

The claimant not attending and having heard from the respondent's solicitor, the judgment of the Tribunal is:

The claimant's claim

- (1) The claim brought by the claimant in these proceedings is struck out in accordance with Rule 38(1)(c) & (d) of the Employment Tribunals' Rules of Procedure 2024.

The respondent's employers contract claim (counter claim)

- (1) The claimant shall pay the respondent the sum of **£1844.66 (One Thousand, Eight Hundred and Forty-Four Pounds, 66 Pence)** in full and final settlement of their counter claim.

REASONS

The claimant's claim

- (2) The claimant failed to reply to a strike out warning issued by Judge Holmes on 19 December 2024 and where he informed the claimant that he was considering striking out the claim.
- (3) The claimant failed to write to object to the proposal by 30 December 2024 as ordered and failed to attend the final hearing today.
- (4) The claimant has previously indicated in correspondence dated 22 November 2024, that he may wish to withdraw his claim. However, by stating that "*Due to serious health issues I will have to withdraw from this*", he had not unequivocally confirmed that his intention was to withdraw his claim and appeared to be responding to the counter claim brought by the respondent.
- (5) He failed to reply to Legal Officer Sheard's letter dated 11 December 2024 or Judge Batten's order dated 23 January 2025 seeking his confirmation as to the nature of his withdrawal. He did not provide any medical evidence which confirmed that he had ongoing health issues that might have affected his ability to pursue the claim or attend the hearing. Consequently, the case remained listed to be heard today.
- (6) The claimant has failed to comply with the case management orders made by Judge Holt on 31 July 2024, has failed to comply with subsequent Tribunal orders and has failed to pursue his claim.
- (7) Accordingly, the claim brought by the claimant in these proceedings is struck out in accordance with Rule 38(1)(c) & (d) of the Tribunals' Rules of Procedure 2024.

The respondent's employers contract claim

- (8) The claimant failed to provide a response to the employer's contract claim which was accepted following reconsideration by Judge Holt at the preliminary hearing case management on 31 July 2024 and following her order that it be provided by 25 September 2024.
- (9) The Tribunal issued a letter dated 21 November 2024 advising the claimant that no response to the respondent's counterclaim had been received. He was ordered to confirm by 28 November 2024, why the Tribunal should not enter judgment in respect of the sums set out in the respondent's application dated 24 October 2024. No reply was received.
- (10) Judge Holmes on 19 December 2024 and Judge Batten on 23 January 2024 reminded the claimant that he had not replied and that there was a risk that judgment would be entered in respect of the counter claim.

- (11) The claimant failed to attend the final hearing today which was listed to determine both his claim and the respondent's counter claim.
- (12) Considering Rule 26, I noted that the claimant had failed to provide a reply to the counter claim and that in accordance with Rule 26(2), I should look to Rule 22 in respect of the effect of non presentation of the reply to the counter claim.
- (13) Rule 22(2) enables me to determine whether the available material permits me to make a proper determination of the counter claim. The claimant not attending the final hearing and having considered the relevant documents within the hearing bundle prepared by the respondent and the submissions from Mr Walton, I was satisfied that the following judgment could be made below:

Decision concerning the counter claim

That the claimant shall pay the respondent the sum of **£1844.66 (One Thousand, Eight Hundred and Forty-Four Pounds, 66 Pence)** in full and final settlement of their counter claim on the following basis:

A. FAILURE TO RETURN IT EQUIPMENT BELONGING TO THE RESPONDENT	
Company property in the sum of £644.99 (ex VAT) to cover the cost of the HP ProBook 450 G9 laptop which was issued to the claimant and not returned to the respondent when his employment ended	Subtotal/Total
Subtotal (IT Equipment)	£644.99
B. COST OF TRAINING	
<ol style="list-style-type: none">1. The claimant's contract of employment provided for recoupment of the costs of training should he leave the respondent's employment within 12 months of the date of completion of that course.2. The claimant's employment began on 20 November 2023 and ended on 19 January 2024. His training took place when his employment began in late November 2023.3. The cost of the training was £448.00.4. The cost of the hotel accommodation during the training was £970.00.5. The cost of the claimant's travel from his home to Chester where the training took place was £201.50.6. In this case, the claimant was obliged to pay the sum of (£448.00 + £970.00 + £201.50) = £1619.50.7. However, the respondent deducted outstanding payments due to the claimant when his	

employment ended, making a net figure of (£1619.50 - £439.83) = £1179.67 net	
Subtotal (Costs of Training)	£1179.67
GRAND TOTAL (A £644.99 + B £1179.12)	£1844.66

Potential costs application by the respondent

- (14) Mr Walton confirmed that he has instructions to consider making an application for costs to be ordered against the claimant because of his unreasonable behaviour in failing to comply with Tribunal orders and to pursue his claim. He explained to me that the claimant's failure to engage with the proceedings had put his client to additional unnecessary cost as they had to prepare additional correspondence during the proceedings, make applications and prepare for a final hearing that could have been avoided.
- (15) The relevant provisions of the Tribunals' Rules dealing with costs can be found at Rules 72 to 82).
- (16) Mr Walton explained that he was not instructed to make an application today for costs but understood that he had 28 days to do so from the date when the judgment was sent to the parties in accordance with Rule 75. The claimant of course, is required to satisfy the judgment above within 14 days of the date of the judgment being sent to the parties.
- (17) Consequently, Mr Walton noted that his client would have time to consider their position regarding costs following the expiry of the 14 day period in respect of the claimant's attempts to satisfy the judgment. If he does so within the 14 day period and in full satisfaction of the sums ordered to be paid, the respondent may decide not to make an application for costs. However, this is a matter where they have reserved their position for future consideration.

Employment Judge Johnson

Date: ...3 February 2025.....

Sent to the parties on: 17 March 2025

For the Tribunal Office

Note

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: **2404573/2024**

Name of case: **Destination 2** v **Mr D Kohli**
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: 17 March 2025

the calculation day in this case is: 18 March 2025

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.