



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Rowe

Respondent: THE ITSTIBBITS FOOD CO LTD

Heard at: Chambers

On: 27 October 2018

Before: Employment Judge Maxwell

JUDGMENT

- 1.1. The judgment of 19 September 2018 dismissing the claimant's claims is reconsidered and revoked.
- 1.2. The claimant's claim for a redundancy payment is well-founded and succeeds, she is entitled to a redundancy payment of £400.
- 1.3. The claimant's claim of unlawful deductions is well-founded and succeeds, she is entitled to £200.
- 1.4. The claimant's claim for breach of contract is well-founded and succeeds, she is entitled to £400;
- 1.5. The claimant's claim for accrued untaken annual leave is well-founded and succeeds, she is entitled to £400.

REASONS

Reconsideration Application

1. By a judgment dated 19 September 2018, Mrs A Rowe's claim for a redundancy payment was dismissed for lack of qualifying employment and her remaining claims dismissed for lack of sufficient evidence or information to quantify any loss, the burden being upon her to prove the same.
2. By an email of 10 October 2018, which I take as an application for reconsideration, Mrs A Rowe provided the following:

I didn't realise I hadn't sent enough information regarding the claim

I sent an email to the court regarding the hearing date, as I'm registered profoundly deaf and would not understand what was being said in the hearing

1, I mrs a rowe worked for tibbits for three years starting May 2015

2, my weekly wage was £200

3, breach-of-contract 3 x£200pounds

4, annual leave 3x£200 was on annual leave at the time he shut the doors and didn't receive any payment for this

3. Mrs A Rowe's application was immediately preceded by a letter of the same date written on the instruction of REJ Pirani, which included:

Although your email to the Tribunal on 11 September 2018 was referred to a Judge who then sent a reply, unfortunately the reply was not then sent out. The Tribunal service apologises for this.

The reply, written by Employment Judge Roper, was to the effect that if you preferred you could prepare a schedule of loss setting out exactly what you are claiming under each aspect of your claim and submit this in writing rather than attend the hearing.

4. From the above correspondence it is apparent that, prior to the hearing on 19 September 2018, Mrs A Rowe had sought to explore with the Tribunal how she might participate in or make representations for the hearing, and that a reply offering guidance on the same was directed by an employment judge but never sent.
5. I am satisfied that it is necessary in the interests of justice, within rule 70 of Schedule 1 to the **Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013**, to reconsider my original decision in this matter. Whilst on 19 September 2018 it appeared that Mrs A Rowe had simply elected not to participate in the proceedings (I did not have the complete file and was not provided with a copy of her email of 11 September 2018 or the reply directed by EJ Roper), in fact she was seeking to make representations and did not receive

a response to her enquiry in that regard. Given a failure by the Tribunal in this, the interests of justice require a reconsideration. Furthermore, in light of the respondent's non-participation, I am satisfied, in accordance with rule 72(2) that a further hearing is unnecessary. On reconsidering the matter, I revoke my original judgment and grant judgment for the claimant on her claims.

Redundancy Payment

6. Mrs A Rowe was employed from May 2015 until her summary dismissal on 6 March 2018, at which point she had 2 complete years of employment. Having been born on 29 October 1977, she was at that point 41 years of age. She is entitled to a redundancy payment calculated as follows $2 \times £200 = £400$.

Unlawful Deductions

7. Mrs A Rowe was on holiday the week before her dismissal (i.e. taking annual leave) and was not paid for this. For that period, she was paid less than was properly payable. The claimant is entitled to a week's pay in the sum of £200.

Breach of Contract

8. Given her employment of more than 2 years, but less than 3, she was entitled to 2 weeks' notice of dismissal. She is entitled to damages for breach of contract in the sum of $2 \times £200 = £400$.

Annual Leave

9. Mrs A Rowe claims unpaid annual leave in the amount of 3 weeks. This includes, however, the week for which she will be compensated by my judgment on her unlawful deductions claim. I award her the balance, therefore, of 2 weeks, in the sum of $2 \times £200 = £400$.

Employment Judge Maxwell

Date: 27 October 2018

JUDGMENT & REASONS SENT TO THE PARTIES ON

7 November 2018

FOR THE TRIBUNAL OFFICE



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **1401269/2018**

Name of case(s): **Mrs A Rowe** v **The Itstibbits Food Company Ltd**

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: **7 November 2018**

"the calculation day" is: **8 November 2018**

"the stipulated rate of interest" is: **8%**

MISS Z KENT
For the Employment Tribunal Office

INTEREST ON TRIBUNAL AWARDS

GUIDANCE NOTE

1. This guidance note should be read in conjunction with the booklet, 'The Judgment' which can be found on our website at

www.gov.uk/government/collections/employment-tribunal-forms

If you do not have access to the internet, paper copies can be obtained by telephoning the tribunal office dealing with the claim.

2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding sums representing costs or expenses) if they remain wholly or partly unpaid more than 14 days after the date on which the Tribunal's judgment is recorded as having been sent to the parties, which is known as "the relevant decision day".

3. The date from which interest starts to accrue is the day immediately following the relevant decision day and is called "the calculation day". The dates of both the relevant decision day and the calculation day that apply in your case are recorded on the Notice attached to the judgment. If you have received a judgment and subsequently request reasons (see 'The Judgment' booklet) the date of the relevant judgment day will remain unchanged.

4. "Interest" means simple interest accruing from day to day on such part of the sum of money awarded by the tribunal for the time being remaining unpaid. Interest does not accrue on deductions such as Tax and/or National Insurance Contributions that are to be paid to the appropriate authorities. Neither does interest accrue on any sums which the Secretary of State has claimed in a recoupment notice (see 'The Judgment' booklet).

5. Where the sum awarded is varied upon a review of the judgment by the Employment Tribunal or upon appeal to the Employment Appeal Tribunal or a higher appellate court, then interest will accrue in the same way (from "the calculation day"), but on the award as varied by the higher court and not on the sum originally awarded by the Tribunal.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.