



EMPLOYMENT TRIBUNALS

Claimants: Miss D Davies

Respondent: Prosurance Ltd

HELD AT: Manchester

ON: 11 December 2019

BEFORE: Employment Judge Tom Ryan

Appearances:

Claimant: In person

Respondent: No attendance, response not entered

JUDGMENT

The judgment of the tribunal is that:

1. The claim in respect of arrears or wages is well-founded.
2. The respondent is ordered to pay the claimant compensation in the sum of £583.24 on or before 3 January 2020 calculated as set out in the Reasons below.

REASONS

1. Of my own initiative I provide reasons for this judgment for the assistance of the parties.
2. The claimant claimed the net sum of £466.59. That sum was the difference between the total of £866.59 shown in her final payslip and the sum in fact paid by the respondent.
3. The respondent did not enter response. The claim was listed for hearing. In evidence the claimant established that she had only been paid £400 out of the total net sum on the payslip.
4. I therefore found that the claim was well-founded. The appropriate remedy is to order the respondent to pay the difference between the sum properly owing and the sum paid.

5. However, the claimant also showed that she had complained about the respondent's failure to pay her. She produced copies of text messages sent to Christopher Pike between 6 August 2019 and 3 September 2019 which showed that he had acknowledged that the claimant was owed the sum claimed. The claimant also produced copies of text messages sent to Lewis Camilleri a director of the respondent between 12 August 2019 and 3 September 2019.
6. It is clear from those text messages that the claimant was making a complaint about the failure to pay. In my judgment that complaint engaged the provisions of ACAS Code of Practice 1 on disciplinary and grievance procedures. The text messages show that there was a complete failure by the respondent to address the claimant's complaint. In simple terms she was fobbed off by Mr Pike and when she attempted to escalate the matter to Mr Camilleri he told her to wait for Mr Pike who was on annual leave and said "... I am very busy. Stop messaging me!". Despite that the respondent never responded to the complaint in any further way.
7. On any analysis this was a complete and unreasonable failure by the respondent to comply with the provisions of the Code which sets out at paragraph 33 to 45 what is required of an employer when an employee makes a grievance.
8. That failure engages the provisions of section 207A of the Trade Union & Labour Relations (Consolidation) Act 1992 which provides as follows:
 - (1) This section applies to proceedings before an employment tribunal relating to a claim by an employee under any of the jurisdictions listed in Schedule A2.
 - (2) If, in the case of proceedings to which this section applies, it appears to the employment tribunal that—
 - (a) the claim to which the proceedings relate concerns a matter to which a relevant Code of Practice applies,
 - (b) the employer has failed to comply with that Code in relation to that matter, and
 - (c) that failure was unreasonable,the employment tribunal may, if it considers it just and equitable in all the circumstances to do so, increase any award it makes to the employee by no more than 25%.
9. The claimant's claim is one of those listed in the schedule and I am satisfied that it is just and equitable to increase the award. In the light of the complete failure to deal with the claimant's legitimate claim and the failure of the respondent to defend the proceedings, I am satisfied that it is appropriate to increase the award by the full 25%.
10. I reach that conclusion without the claimant having applied to the tribunal for such an uplift. It is a matter in respect of which the Tribunal can determine without such an application having been made.

11.I therefore calculate the compensation which is payable to the claimant by the respondent as follows:

Arrears of wages	£466.59
S.207A Uplift at 25%	<u>£116.65</u>
Total	£583.24

Employment Judge

Dated 11 December 2019

JUDGMENT SENT TO THE PARTIES ON

13 December 2019

FOR THE TRIBUNAL OFFICE

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.



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number: **2413604/2019**

Name of case: **Miss D Davies** v **Prosurance Limited**

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: 13 December 2019

"the calculation day" is: 14 December 2019

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

MR S ARTINGSTALL
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/publications/employment-tribunal-hearings-judgment-guide-t426

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.