



EMPLOYMENT TRIBUNALS

Claimants: (1) Mr Desmond Neil
(2) Mr Robert Coxon
Respondent: (1) Gelders Gourmet Limited (joined by the first claimant only)
(2) Gelders Food Limited (joined by both claimants)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Held at: North Shields

On: 17 April 2019

Before: Employment Judge A M Buchanan (sitting alone)

Appearances:

For the first claimant: Mr A Tinnion of Counsel

For the second claimant: In person

For the first respondent: No attendance and no response entered

For the second respondent: No attendance and no response entered

JUDGMENT

It is the Judgment of the Tribunal that:

Claim Number 2500088/2019: Desmond Neil (“the first claimant”)

1. The first claimant was dismissed by the second respondent by reason of redundancy on 21 September 2018 and is entitled to a redundancy payment of **£5684.45p** (19.5 weeks x £291.51p gross per week) and the second respondent is ordered to pay that sum to the first claimant.

2. The claim for breach of contract (notice pay) advanced by the first claimant is well-founded and the second respondent is ordered to pay to the first claimant the sum of **£2113.52p** (12x £268.28 net per week less £1105.84 universal credit received during the notice period) as damages for breach of contract. There was no right to receive a payment in lieu of notice contained in the contract of employment of the first claimant and the duty to mitigate applies.

3. The claim for unpaid wages is well-founded and the second respondent is ordered to pay to the first claimant the sum of **£291.51p** (1 week at £291.51 per week) in respect of unpaid wages. This is a gross sum and the first claimant shall account to the appropriate authorities for any income tax and employee national insurance contributions due in respect of such sum on receipt.

4. The total sum due to the first claimant from the second respondent of **£8089.48** is payable forthwith.

5. All claims against the first respondent are dismissed.

Claim Number 2500013/2019: Robert Coxon (“the second claimant”)

6. The name of the second respondent (the only respondent in these proceedings) is amended to Gelders Food Limited. There is no necessity for re-service.

7. The second claimant was dismissed by the second respondent by reason of redundancy on 21 September 2018 and is entitled to a redundancy payment of **£6565.45p** (21.5 weeks x £305.37p gross per week) and the second respondent is ordered to pay that sum to the second claimant.

8. The claim for breach of contract (notice pay) advanced by the second claimant is well-founded and the second respondent is ordered to pay to the second claimant the sum of **£2243.92p** (12x £275.16 net per week less £1058.00 universal credit received during the notice period) as damages for breach of contract. There was no right to receive a payment in lieu of notice contained in the contract of employment of the second claimant and the duty to mitigate applies.

9. The claim for unpaid wages is well-founded and the second respondent is ordered to pay to the second claimant the sum of **£305.37p** (1 week at £305.79p per week) in respect of unpaid wages. This is a gross sum and the second claimant shall account to the appropriate authorities for any income tax and employee national insurance contributions due in respect of such sum on receipt.

10. The claim for unpaid holiday pay is well-founded and the second respondent is ordered to pay to the second claimant the sum of **£207.65p** (3.4 days at £61.07 per week) in respect of unpaid holiday pay. This is a gross sum and the second claimant shall account to the appropriate authorities for any income tax and employee national insurance contributions due in respect of such sum on receipt. The holiday year began on 1 April 2018 and by 21 September 2018 the second claimant had accrued 13.4 days annual leave. He had taken and had been paid for ten days leaving 3.4 days outstanding.

11. The total sum due to the second claimant from the second respondent of **£9322.39p** is payable forthwith.

Employment Judge A M Buchanan

Date: 17 April 2019

Note: Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

Public access to employment tribunal decisions

Judgements 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(s): **2500088/2019 & 2500013/2019**

Name of **Mr D Neil &** v **Gelders Gourmet Limited**
case(s): **Mr R Coxon** & **Others**

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: **24 April 2019**

"the calculation day" is: **25 April 2019**

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

MISS K FEATHERSTONE
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.