



# THE EMPLOYMENT TRIBUNALS

**Claimant**

Mr S Williams

**Respondent**

TCB Leisure Ltd t/a "The Potters Wheel"

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Made at North Shields

ON 1<sup>st</sup> March 2019

EMPLOYMENT JUDGE GARNON

### **JUDGMENT (Liability and Remedy )** **Employment Tribunals Rules of Procedure 2013 – Rule 21**

**The claim of unlawful deduction of wages is well founded. I order the respondent to repay £ 312 to the claimant. The Hearing listed for 6 March 2019 is cancelled.**

### **REASONS**

1. The claimant worked as a chef from 21 October to 4 November 2018 at a public house called " The Potter's Wheel" . His claim form says his agreed rate of pay was £9 per hour and over the period of his employment he worked for 48 hours until he was told by the head chef there was no more work available .He presented his claim on 22 November 2018 having undergone Early Conciliation from 19 to 22 November initially against "Jon Kelly" believing him to be the proprietor of The Potter's Wheel.

2.The claim was sent on 8 January 2019 to Mr Kelly at the address given for The Potter's Wheel. No response was received by the due date of 5 February 2019. However, the claimant emailed the tribunal that day saying he believed his claim was against "The Potter's Wheel pub ".A company search on 7 February showed a company "The Potter's Wheel Pub Ltd " had been dissolved in December 2016.

3. The claimant was sent a letter by the Tribunal asking for certain information and that was copied to the respondent . Mr Kelly emailed the Tribunal on 14 February saying the claimant did not work for him personally but for TCB Leisure Ltd of which he was a director . Mr Kelly gave reasons for payment not having been made earlier but did not deny some payment was due . The claimant then confirmed his payslips showed the employer as "TSB Leisure Ltd trading as The Potter's Wheel" He sent in a payslip which agreed with his figure of 48 hours worked but specified a rate of pay of £7.83, being at the time the national minimum wage.

4. The fact Mr Kelly emailed the tribunal showed the claim had been received . He has never submitted a response. Employment Judge Johnson on 18 February asked the claimant confirm the correct name of the respondent was TCB Leisure Ltd and that Mr Kelly personally could be dismissed as a respondent . That letter was copied to Mr Kelly. The claimant did agree, and by email on 18 February so did Mr Kelly. Therefore on 20 February Employment Judge Johnson amended the claim so the respondent became, by way of substitution, TCB Leisure Ltd as but still trading as "The Potter's Wheel " .

5. Although in his claim form the claimant says the only advance he had on wages, which would fall to be deductible from the total he earned, was £100 he has since accepted the correct figure was , as shown on the payslip, £120.

6. I am empowered by rule 21 of the Employment Tribunals Rules of Procedure 2013 to issue a judgment. The relevant law is in Part 2 of the Employment Rights Act 1996. The claim form gives sufficient information to prove the claim and calculate remedy . I cannot find any other rate of pay, or sum advanced against wages, than contained in it because Mr Kelly has not submitted a response on behalf of himself or the company respondent.  $48 \text{ hours} \times \pounds 9 = \pounds 432$   $-\pounds 120 \text{ advanced} = \pounds 312$ .

**EMPLOYMENT JUDGE GARNON**

**SIGNED ON 1 March 2019**



## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): **2503454/2018**

Name of case(s): **Mr S Williams** v **TCB Leisure 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: **4 March 2019**

"the calculation day" is: **5 March 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](http://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.