



EMPLOYMENT TRIBUNALS

Claimant: Miss M Towers

Respondent: Adliz Leisure Limited

Heard at: MANCHESTER via CVP

On: 19 March 2021

Before: Employment Judge Sharkett
(sitting alone)

REPRESENTATION:

Claimant: In person

Respondent: Response not entered- no attendance or representation

JUDGMENT

The Judgment of the Tribunal is:

1. The respondent unlawfully deducted **£591.42** from the claimant's wages, which sum it is ordered to pay her. This is a net sum and the respondent shall (if it has not done so already) account to HMRC for any tax and national insurance payments due upon it.

2. The respondent failed to provide the claimant with a written statement of employment particulars as required under s1 Employment Act 1996. In accordance with s38 Employment Act 2002 the Tribunal makes an additional award of 4 weeks pay at the rate of 68.46 per week, which amounts to the sum of **£273.84**

REASONS

1. The code V in the header indicates that this was a CVP hearing, held because the Tribunal considered that the issues could be determined without the need for an in person hearing. Neither party objected to that. The Employment Judge explained the procedure to the claimant, and invited her to raise any questions she may have during the course of the hearing.

2. The claimant brings a claim of unlawful deduction of wages by the Respondent. The claimant worked for the respondent at the Jolly Hatters public house on Haughton Green Road, Denton. The claimant issued a claim form on 15 October

2020 and the same was served upon the respondent at the registered address marked for the attention of the manager of the public house Adam Taylor who is also a statutory director of the respondent. The respondent was notified of the date on which a response must be made but no response was received and the respondent did not respond to any further communication from the Tribunal.

3. I was satisfied that the claim had been properly served upon the respondent and that it had received notice of this Hearing. In the circumstances I determined to proceed in the absence of the respondent who had not notified the Tribunal that it did not intend to attend.

4. It is the claimant's case that she was employed by the respondent as a part time member of bar staff working 12 hours per week. She explained that when lockdown first commenced in March 2020 she was initially told that she was not eligible to be furloughed, however she was later told she was furloughed and received a sum of £230 followed by two payments of £68.46. She received no further monies after that and was told by Mr Taylor that she had been paid all monies that he had received for her under the 'furlough scheme' more properly known as the Coronavirus Job Retention Scheme. Upon enquiry of HMRC via her personal account with them the claimant discovered that HMRC had made payments to the respondent for sums under this scheme and in respect of the claimant from 17 April 2020 to 31 July 2020. The claimant produced the documentary evidence in support of her claim.

5. Whilst there was no written agreement between the claimant and the respondent in respect of her employment being furloughed, the claimant agrees that she accepted to be paid 68.46 per week to stay at home which represents 80% of the claimant's entitlement under the national minimum wage.

6. As referenced above the claimant has received the total sum of £366.92 from the respondent from the time she considered herself to have been furloughed. The Tribunal find that in accordance with the verbal agreement between the claimant and the respondent the 'wages' properly payable to her was £958.44. The Tribunal find that respondent had made a deduction from her wages that it was not entitled to make in the sum of £591.42. The respondent is ordered pay this to the claimant. It is a net sum, the claimant having given credit for the income tax payable (and possibly actually paid) by the respondent.

13. Finally, as it was apparent that the claimant was never provided with a written statement of terms of her employment, as required by s.1 of the Employment Rights Act 1996 the Tribunal is required by s.38 of the Employment Act 2002 to make an additional award of either two or four weeks' pay, unless there are exceptional circumstances which would make it unjust or inequitable to do so.

14. The Tribunal can see no reasons not to do so, and given the wholesale failure of the respondent to provide any contract or written particulars, she awards the higher additional award of four weeks pay at the rate of 68.46 per week, a total of £273.84

Employment Judge Sharkett

Date: 10 March 2021

JUDGMENT SENT TO THE PARTIES ON
Date: 11 March 2021

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: 2415813/2020

Miss M Towers v Adliz 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: 11 March 2021

"the calculation day" is: 12 March 2021

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

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.