



EMPLOYMENT TRIBUNALS

Claimants: Mr J Christou (1) and Mr P Baldwin (2)

Respondent: Odema Limited

Heard at: Manchester On: 22-26 April 2024

Before: Employment Judge Leach

REPRESENTATION:

Claimant: Mr Lassey (Counsel)

Respondent: Ms Niaz Dickinson (Counsel)

JUDGMENT

The claimants' complaints of unfair constructive dismissal and wrongful dismissal do not succeed and are dismissed.

The second claimant's complaint that he has not been paid for untaken holidays that had accrued up to the date of termination of employment, succeeds to the extent that is set out in the Annex attached. The respondent is ordered to pay the second claimant **£346.15 gross**.

Employment Judge **Leach**
Date 26 April 2024

JUDGMENT SENT TO THE PARTIES ON

2 May 2024

FOR THE TRIBUNAL OFFICE

Notes

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

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.

ANNEX

1. Claimant had a contractual annual leave entitlement to 24 days plus statutory holidays. The entitlement (not including statutory holidays) therefore accrued by 2 days per calendar month.
2. In 2021, Respondent amended holiday year from calendar year to 1 April to 31 March. To achieve this respondent had a short “holiday year” from 1 January 2021 to 31 March 2021 (the “Exceptional Period”).
3. Respondent has a policy of only allowing carry forward of annual leave in exceptional circumstances. The change in holiday year was an exceptional circumstance and employees were allowed to carry forward untaken holidays accrued in the Exceptional Period.
4. Claimant accrued 6 days’ annual leave in the Exceptional Period but only took 0.5 days. 5.5 days therefore carried forward. Added to entitlement that had accrued as at the resignation (21 days) that amounts to 26.5 days.
5. Add 8 statutory days = 34.5 days. Claimant had taken 33.5 days (25.5 plus 8 statutory holidays) in the holiday year 1 April 2021 to 31 March 2022.
6. Claimant has one day accrued untaken holiday outstanding. Respondent is ordered to pay to the claimant **£346.15 Gross** (a day’s pay based on the claimant’s annual salary of £90,000 divided by 52 divided by 5).



NOTICE

THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990 ARTICLE 12

Case number: **2403640/2022**

Name of case: **Mr P Baldwin** v **Odema Ltd**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party to proceedings to pay a sum of money to another party, apart from sums representing costs or expenses.

No interest is payable if the sum is paid in full within 14 days after the date the Tribunal sent the written record of the decision to the parties. The date the Tribunal sent the written record of the decision to the parties is called **the relevant decision day**.

Interest starts to accrue from the day immediately after the relevant decision day. That is called **the calculation day**.

The rate of interest payable is the rate specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as **the stipulated rate of interest**.

The Secretary of the Tribunal is required to give you notice of **the relevant decision day**, **the calculation day**, and **the stipulated rate of interest** in your case. They are as follows:

the relevant decision day in this case is: 2 May 2024

the calculation day in this case is: 3 May 2024

the stipulated rate of interest is: **8% per annum**.

Mr S Artingstall
For the Employment Tribunal Office

GUIDANCE NOTE

1. There is more information about Tribunal judgments here, which you should read with this guidance note:

www.gov.uk/government/publications/employment-tribunal-hearings-judgment-guide-t426

If you do not have access to the internet, you can ask for a paper copy by telephoning the Tribunal office dealing with the claim.

2. The payment of interest on Employment Tribunal awards is governed by The Employment Tribunals (Interest) Order 1990. Interest is payable on Employment Tribunal awards if they remain wholly or partly unpaid more than 14 days after the **relevant decision day**. Sums in the award that represent costs or expenses are excluded. Interest starts to accrue from the day immediately after the **relevant decision day**, which is called **the calculation day**.
3. The date of the **relevant decision day** in your case is set out in the Notice. If the judgment is paid in full by that date, no interest will be payable. If the judgment is not paid in full by that date, interest will start to accrue from the next day.
4. Requesting written reasons after you have received a written judgment does **not** change the date of the **relevant decision day**.
5. Interest will be calculated as simple interest accruing from day to day on any part of the sum of money awarded by the Tribunal that remains unpaid.
6. If the person paying the Tribunal award is required to pay part of it to a public authority by way of tax or National Insurance, no interest is payable on that part.
7. If the Secretary of State has claimed any part of the sum awarded by the Tribunal in a recoupment notice, no interest is payable on that part.
8. If the sum awarded is varied, either because the Tribunal reconsiders its own judgment, or following an appeal to the Employment Appeal Tribunal or a higher court, interest will still be payable from **the calculation day** but it will be payable on the new sum not the sum originally awarded.
9. The online information explains how Employment Tribunal awards are enforced. The interest element of an award is enforced in the same way.