



EMPLOYMENT TRIBUNALS

Claimant: Mrs P Gray

Respondents: 1. Independent Financial Matters Limited (in Creditors' Voluntary Liquidation)
2. Anderson Maine Limited (in Creditors' Voluntary Liquidation)

RULE 21 JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The time for presenting a response having expired , and no valid response having been presented by the first respondent within the prescribed time limit , it is the judgment of the tribunal that:

1. The claimant's claim of unfair dismissal is well founded, and succeeds. She is entitled to compensation. The claimant was, however, dismissed by reason of redundancy , and is entitled to a redundancy payment. She is not, therefore entitled to any basic award.
2. The claimant's entitlement to a redundancy payment is:

4.5 weeks at £307.69 per week **£1384.61**

which sum the first respondent is ordered to pay her.
3. The claimant is potentially entitled to a compensatory award. She was out of work for two weeks, and lost £548.86 net earnings. This would, however, be the first two weeks of her three week notice period. She was paid £411.63 by way of notice pay, that is a shortfall of £137.23. She also received JSA of £146.20 during this period, which would fall to be recouped from any award of compensation.
4. She seeks an award for loss of statutory rights, but as, given the insolvency of her employer, her employment would, had a fair consultation and procedure been followed, her employment would have ended in any event and it would not be just and equitable to make such an award. The Tribunal thus proposes to make no compensatory award.
5. The claimant was dismissed in breach of contract , and is entitled to notice pay. The claimant was entitled to three weeks notice, at a net rate of £274.43 per week, a total of £823.29 . She received, however, £411.63 by way of

notice pay, and JSA of £146.20, which falls to be deducted. Her net loss is accordingly, **£265.46**, as damages for breach of contract, which sum the first respondent is ordered to pay her. This is net sum , and the respondent must account to HMRC for any tax and national insurance payments due upon it.

6. The claimant's complaint of unauthorised deduction from wages is well-founded and succeeds. The first respondent unlawfully deducted payments due to the claimant in respect of one week's wages , in the sum of £274.43 net, in respect of the period 15 October to 22 October 2018.
7. The first respondent made further unauthorised deductions in respect two weeks worked in hand at the commencement of the claimant's employment, which it failed to pay her on termination , a total of £548.86.
8. The first respondent is ordered to pay the claimant the said total sum of **£823.29**. This is a net sum, and the first respondent shall account to HMRC for the appropriate deductions for tax and national insurance.
9. The first respondent failed to consult with the claimant as a person who may be affected by proposals to dismiss, or measures taken in connection with the dismissal of, 20 or more employees, in breach of s.188(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.
10. The claimant is entitled to , and the Tribunal orders the first respondent to pay, a protective award. That award is an award of remuneration for the protected period of 90 days from 22 October 2018.
11. No awards are sought against the second respondent, and the claims against it are dismissed.

NOTE

12. A protective award is a two stage process. The Tribunal at this stage makes no financial awards, but gives a judgment that the claimant is entitled to a protective award in the terms set out above. The claimant must then seek payment of her individual award from the respondent (or the Secretary of State) , quantifying the same.
13. Failure to pay, or any dispute as to the amount payable, then becomes a matter for a further separate claim under s.192 of the Trade Union and Labour Relations (Consolidation) Act 1992 for payment of the award.
14. The Tribunal apologises to the claimant for the delay in the judgment being made in this case, occasioned by a combination of circumstances, including, most recently, the limitation upon the Tribunal's administrative and judicial resources due to the effects of the Covid – 19 pandemic.

JUDGMENT SENT TO THE PARTIES ON
22 December 2020

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: 2402756/19

Mrs P Gray v Independent Financial Matters Limited (in Creditors' Voluntary Liquidation)

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: 22 December 2020

"the calculation day" is: 23 December 2020

"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/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.