



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr K Spencer

v

Fylde Coast Advice and
Legal Centre

JUDGMENT

1. The respondent has made unlawful deductions from the claimant's wages by failing to pay to the claimant:
 - a. his wages for March – July 2022 in the total amount of **£7,164**, and
 - b. for 8 days of accrued but untaken holidays in the total amount of **£432**.
2. The respondent is ordered to pay to the claimant the gross sum of **£7,596.00**, in respect of the amount unlawfully deducted, and to account to HMRC for any tax and NI due.
3. The respondent was in breach of contract by failing to make pension contributions on the claimant's behalf during the claimant's employment with the respondent and is ordered to pay to the claimant the gross sum of **£936**, being damages for breach of contract.
4. This judgment does not affect the claimant's claim for an uplift for the respondent's unreasonable failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures, the claim for £136 for job seeking expenses, and any claim under s.24(2) Employment Rights Act 1996, which claims shall be determined at the final hearing on 24 April 2023.

REASONS

1. By a claim form dated 2 August 2022 the claimant brought complaints of unlawful deduction from wages, holiday pay and breach of contract. The

complaints are about the respondent failing to pay to the claimant his salary for March, April, May, June and July 2022 (in the total amount of £5,850), for 8 days of accrued but untaken holiday (£432) and for failure to make pension contributions for the whole period of the claimant's employment with the respondent (£936).

2. The claimant also seeks 10% uplift for the respondent's failure to follow the ACAS Code of Practice on Disciplinary and Grievance Procedures in dealing with his grievance, and £136 for job seeking expenses.
3. The respondent entered a response contesting the claims on the basis that it is a small charity and has no funds to pay the claimant. The respondent also contested the amounts claimed by the claimant.
4. However, at the case management preliminary hearing on 31 January 2023, the respondent conceded liability for the principal amounts claimed, while maintaining that it was not liable to pay the 10% uplift.
5. Accordingly, this judgment records the respondent's conceded liability for the unauthorised deductions from wages and breach of contract and orders the respondent to pay to the claimant the principal amounts claimed.
6. The remaining issues in the case will be decided at the final hearing on 24 April 2023.

Employment Judge Klimov
31 January 2023

Sent to the parties on:
13 February 2023

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For the Tribunals 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 ARTICLE 12

Case number: **2405886/2022**

Name of case: **Mr K Spencer** v **Fylde Coast Advice and
Legal Centre**

Interest is payable when an Employment Tribunal makes an award or determination requiring one party 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: 13 February 2023

the calculation day in this case is: 14 February 2023

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.