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## EMPLOYMENT TRIBUNALS

*Claimant*

*Respondent*

Mr A Gledhill

AND

Designer Ideas Limited  
(In Administration)

### PRELIMINARY HEARING

HELD AT: London Central ON: 5 April 2019

BEFORE: Employment Judge Russell (Sitting alone)

#### *Representation:*

For Claimant: Ms A Sidossi, of Counsel  
For Respondent: Not present or represented

### JUDGMENT

#### Judgment

1. The Respondent has breached its obligation under s.199 TULR(8)A by failing to consult with the Claimant's ahead of their dismissal by way of redundancy and as a result a protective award should be made to each of the affected five Claimants.

2. The protective award payments are based on a 90 day protective award reflecting the seriousness of the breach with the statutory week's pay 'cap' of £508 being applied where appropriate.

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|-------------------|---|----------------------|
| (a) Mr A Gledhill | - | the sum of £9,144.00 |
| (b) Mr M Gelitsev | - | the sum of £8,699.40 |
| (c) R D Puzio     | - | the sum of £7,742.70 |
| (d) Mr P Cheddie  | - | the sum of £7,309.80 |
| (e) Mr N Bowden   | - | the sum of £9,144.00 |

3. The protective period begins on 9 February 2018 for Mr Gledhill and 12 February 2018 for the other Claimants and continues to 10 May for Mr Gledhill and 13 May for the other Claimants.

## REASONS

1. Default Judgment was given in this case on 19 November 2018 confirming the five Claimant's complaints of unfair dismissal were well founded and the Respondents were in breach of s.188 TULR(c)A 1992.

2. At this remedy hearing all five Claimants gave evidence on oath to confirm the circumstances of their dismissal and the lack of consultation received. The Respondent made no appearance. It now seems that whilst the Respondent company is stated as still in administration it now trades as Warren Evans. Whether or not the company has been purchased as a going concern from the administrator is uncertain but the Claimants were all made redundant on 9 or 12 February 2018 after the appointment of administrators on 6 February 2018. And at that time they were all told there was no buyer and the business was to close. They and over twenty other employees lost their jobs.

3. It is clear that even though a full consultation period of at least 30 days was unlikely the Respondent could have entered into meaningful consultation with the Claimants at least a week before the first redundancy, but failed to do so. There is no 'special circumstances' defence raised by the Respondent under s.189(6) and it is clear the employees' claims are well founded. I am therefore obliged to make a declaration to that effect and may make a protective award TULR(c)A (s.189(2)) and I am minded to do so in this case.

4. I may make an award of such length as the tribunal determines to be just and equitable having regard to the seriousness of the employer's default". I take into account the principles set out in the Susie Radin Limited v GMB (2004) case including that the purpose of the award is to provide a sanction not compensation and the proper approach is to start with the maximum 90 days award and only reduce it if there are mitigating circumstances.

5. And in this case, there seems no justification to reduce the award especially given the apparent indifference of the Respondent to the obligations it had to handle group redundancies under Chapter II of TULR(c)A 1992. I therefore award each of the Claimants a sum reflecting their entitlement to 90 days gross pay capped at £508 per week applicable maximum statutory week's pay.

6. Each Claimant has received payments out of the National Insurance Fund in respect of notice pay and are reminded that further amounts payable under that fund are limited to an aggregate of eight week's gross pay (again capped at a week's pay under statute) allowing for monies already paid eg for notice. And in any event the insolvency service may question the current trading position of the Respondent if it has been purchased as a going concern. But subject to such points the Claimant's entitlement to the

protective awards is established and are awarded through this remedy judgment.

7. In each case the gross weekly pay (or £508 if lower) has been applied to calculate the protective award for each Claimant. The daily amount has been determined on such basis and so Mr Gledhill is awarded £9,144 (£101.60 x 90 days based on a capped weekly pay of £508.00 and a five day working week). The other Claimants are (reflecting their schedules of loss) awarded compensation on the same basis but with different weekly pay. Mr Gelitsev £8,699.40 (£96.66 daily rate), Mr Puzio £7,742 (£86.03 daily rate) Mr Cheddie £7,309.80 (£81.22 daily rate) and Mr Bowden £9,144.00 (£101.60 daily rate).

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Employment Judge Russell

Dated: 12 April 2019

Judgment and Reasons sent to the parties on:

15 April 2019

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For the Tribunal Office