



EMPLOYMENT TRIBUNALS

Claimant: Ms M Ayres and others
Respondent: Taylor Newspapers Limited (In Liquidation)
Heard at: Reading **On:15 August 2019**
Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimant: Written representations received by the Tribunal on 7 August 2019
For the Respondent: No attending

JUDGMENT

1. The claimants' complaint that the respondent has failed to comply with the requirement of section 188 of the Trade Union Labour Relations (Consolidation) Act 1992 is well founded.
2. The Tribunal makes a protective award in respect of the protected period as defined in section 189 (4) of the Trade Union Labour Relations (Consolidation) Act 1992 which shall be the period 90 days.

REASON

1. In a claim form presented on the 29 August 2018 the claimants made a complaint for a protective award pursuant to section 188 of the Trade Union Labour Relations (Consolidation) Act 1992.
2. The respondent has not defended the claim.
3. The respondent, Taylor Newspapers Limited, was placed into Creditors' Voluntary Liquidation on 25 June 2018.
4. As at 29 May 2018, the respondent employed 20 employees all were employed at 4a Hawkesworth, Southmead, Didcot, OX11 7HR.
5. On 29 May 2018, all the employees of the respondent were dismissed as redundant by the respondent. Prior to the dismissal the employees had

received no communication from the respondent that they were to be made redundant.

6. By section 188 (1) Trade Union and Labour Relations (Consolidation) Act 1992: "Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals."
7. The consultation is required to begin in good time, and in this case at least 30 days, before the first of the dismissals takes effect.
8. For the purposes of section 188 the appropriate representatives of any affected employees are, if the employees are of a description in respect of which an independent trade union is recognised by their employer, representatives of the trade union, or in any other case, whichever of the following employee representatives the employer chooses: employee representatives appointed or elected by the affected employees otherwise than for the purposes of this section, who have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf; employee representatives elected by the affected employees, for the purposes of this section, in an election satisfying the requirements of section 188A(1) of Trade Union Labour Relations (Consolidation) Act 1992.
9. The consultation shall include consultation about ways of avoiding the dismissals, reducing the numbers of employees to be dismissed, and mitigating the consequences of the dismissals, and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.
10. The employees had no appropriate representatives to be consulted about proposed dismissals. No opportunity was given by the respondent to the employees to elect employee representatives, and so no employee representatives were elected. There was no consultation undertaken by the respondent. No employee was provided with information regarding proposed redundancies prior to the making of the redundancies on 29 May 2018.
11. I am satisfied that the claimants' complaint under section 188 is well founded.
12. Where the complaint is well-founded the Employment Tribunal shall make a declaration to that effect and may also make a protective award.
13. A protective award is an award in respect of one or more descriptions of employees who have been dismissed as redundant, or whom it is proposed to dismiss as redundant, and in respect of whose dismissal or proposed dismissal the employer has failed to comply with a requirement

- of section 188, ordering the employer to pay remuneration for the protected period.
14. The protected period begins with the date on which the first of the dismissals to which the complaint relates takes effect, in this case 29 May 2018, and is of such length as the tribunal determines to be just and equitable in all the circumstances having regard to the seriousness of the employer's default in complying with any requirement of section 188; but shall not exceed 90 days.
 15. Where there has been a complete failure to engage in any consultation at all by the employer the starting point is the 90 days maximum. This is reduced where it is just and equitable to do so having regard to the seriousness of the employer's default.
 16. In this case there are no mitigating circumstances that have been present or put forward to justify a reduction in the level of the protective award.
 17. I therefore make a protective award of 90 days.
 18. The claimants and employees to whom this judgment refers are those employees dismissed as redundant by the respondent on the 29 May 2018 at 4a Hawkesworth, Southmead, Didcot, OX11 7HR. The claimants are listed in the schedule:

SCHEDULE

Mrs M Ayres	3332436/2018
Mr F Calaliere	3332437/2018
Ms E Elford	3332438/2018
Mr T Harbour	3332439/2018
Mr P Herring	3332440/2018
Mr S Lucy	3332441/2018
Mr D Mason	3332442/2018
Ms K Neville	3332443/2018
Ms L Taylor	3332444/2018
Mr J Wicks	3332445/2018
Ms E Webb	3332446/2018

Employment Judge Gumbiti-Zimuto

Date: 19 August 2019

Sent to the parties on: 26 September
2019

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For the Tribunals Office

Note

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.

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