



EMPLOYMENT TRIBUNALS

Claimant: Mr A Hill
Respondent: (1) Harvard Technology Limited (In Administration)
(2) Secretary of State for Business, Energy and Industrial Strategy

AT A HEARING

Heard at: Leeds on: 18th October 2019
Before: Employment Judge Lancaster
Members: Mr R Stead
Mr G Corbett

Representation

Claimant: Did not attend but made written representations
Respondent: (1) No appearance entered and did not attend
(2) As a person interested in the proceedings made general written representations but did not attend

JUDGMENT

1. The claim for a protective award succeeds.
2. The First Respondent is ordered to pay to the Claimant remuneration for a protected period of 90 days beginning on 10th December 2018.
3. The Employment Protection (Recoupment of Benefit) Regulations 1996 regulations 6, 7 and 8 apply to this award.
4. The First Respondent is accordingly advised of its duties under the Regulations and any award made will be postponed pending any service of a recoupment notice by the Secretary of State in respect of relevant benefits received by the Claimant in the prescribed period and only the balance of any remuneration due will then be payable directly to the Claimant.

REASONS

1. Under section 189 (3) of the Trade Union and Labour Relations (Consolidation) Act 1992 an employee who has been or is proposed to be made redundant is entitled to a protective award if in respect to his dismissal there has been a failure to comply with the provisions of section 188.

Case: 1800893/2019

2. The Claimant was made redundant from 10th May 2019, effected by letter from the administrators.
3. The issue before the tribunal is whether that dismissal was one in respect of which there had been a failure to consult in respect of a proposal to dismiss 20 or more employees within a period of 90 days or less, where that period had commenced with the first dismissals on 10th December 2018, and so had already expired before the termination of the Claimant's employment.
4. We have heard relevant evidence in the linked case of Mr G Wilson (1800491/2019) which we accept. That is that that a number employee remained working for the company in administration after 10th December 2018 but that production finished in April 2019 and that after that date only 4 people – including Mr Wilson and this Claimant – were still kept on, despite having received several verbal intimations that they would be dismissed from March onwards, until the final closure on 10th May 2019.
5. We therefore find as a fact that there was a single proposal to effect redundancies and not a separate and subsequent exercise. To use a rugby analogy there was not a double movement and the try can be awarded. The failure to consult about the proposed collective redundancy still applies to the Claimant's dismissal even though it was in the event put back successively until after the original 90 day period had passed.

EMPLOYMENT JUDGE LANCASTER

DATE 18th October 2019

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.