



# EMPLOYMENT TRIBUNALS

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

## AT A HEARING

**Heard at:** Leeds                      **On:** 18<sup>th</sup> October 2019  
**Before:** Employment Judge Lancaster  
**Members:** Mr R Stead  
                  Mr G Corbett

### Representation

**Claimant:** Did not attend and did not make 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 against the First Respondent is dismissed.

## 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.
2. The Claimant was still employed at the date he presented his claim form on 1<sup>st</sup> March 2019.
3. Although we know from relevant evidence in the linked case of Mr G Wilson (1800491/2019) that he had left before the final dismissals were effected on 10<sup>th</sup> May 2019 we do not know that he was ever in fact made redundant.
4. We do not know if he was even dismissed. He may have simply left to obtain other employment before actually having been issued with any notice of redundancy, or he may, conceivably, have transferred to another company acquiring some part of the business of the First Respondent
5. There is no entitlement to a protective award for those who have simply been under threat of redundancy but were not in the event dismissed for that reason: Securicor Omega Express Ltd v GMB [2004] IRLR 9.

Case: 1800867/2019

6. If the Claimant was not made redundant, and we have no evidence that he was, then he is not entitled to an award.

EMPLOYMENT JUDGE LANCASTER

DATE 18<sup>th</sup> October 2019

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