



EMPLOYMENT TRIBUNALS

Claimants: 1) Mr T Armstrong and others
2) GMB and others
3) Mr R Milne and others
4) Mr L Fletcher and others
5) Mr M Notley and others

Respondents: 1) Godfrey Syrett Limited (in administration)
2) The Secretary of State for Business, Energy & Industrial Strategy

Heard at: North Shields Hearing Centre **On:** 30 August 2019

Before: Employment Judge Martin

Members: Mrs C E Hunter
Mr D N Cattell

Representation:

Claimant: Ms N Toner, Solicitor (for Mr Armstrong & Others, Mr Fletcher and Mr Notley)

Mr McHugh of Counsel (for GMB and Mr Milne & Others)

Respondent: No attendance from the 1st or 2nd Respondents

JUDGMENT

- 1) All of the complaints under Section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA) are well founded.
- 2) The Tribunal orders the first and / or second respondents to make protective awards of 90 days' pay to all employees employed at the Killingworth site and the other two sites namely Belmont and Langley Moor; and to all employees who worked remotely and/or from home. This Award relates to all employees who were dismissed on or after 9 January 2019 and who brought a claim before this Tribunal.
- 3) The Tribunal notes that the first respondent is in administration and that

any award will be paid by the Secretary of State and be limited to 8 weeks' pay.

REASONS

- 1) The Tribunal heard evidence from a number of claimants namely: Mr Eggleston, Mr Milne, Mr Kildare and Mr Armstrong. We also heard evidence from Donna Walton, GMB Organiser for the Killingworth site. It was also provided with witness statements from a number of other claimants who did not attend to give evidence today, namely Ms Liddle, Mr Baines and Mr Commerford. The Tribunal was provided with a bundle of documents which included a copy of the recognition agreement between the GMB and the first respondent together with some other correspondence between the GMB and the respondents. It also included some correspondence and letters relating to the redundancies. The Tribunal also heard oral submissions from the representative for the GMB and Mr Milne and was provided with a written submission given orally from the representative for Armstrong and others.
- 2) The Tribunal was also referred to and considered a number of cases which included the well-known case of Susie Radin Limited v GMB and others 2005 ICR435; the case of R v British Coal Corporation and Secretary of State for Trade and Industry ex parte Price and others 1994 IRLR 72. It was also considered the cases referred to both claimants' representatives in their submissions.
- 3) The Tribunal accept that the GMB was a recognised union for all employees based at the Killingworth site. The Tribunal took note of the documentary evidence and accepted the oral evidence given in that regard.
- 4) On or around the end of November 2018, the first respondent announced their intention to close the Langley Moor site, as is set out at page 122 of the bundle. There was no recognised union at that site. The respondent did not attempt to engage in any collective consultation, as required under Section 188 – 189 of TULRA. In particular it did not comply with the requirements to elect employee representatives in order to give the employees the opportunity to engage in any collective consultation. The first respondents did ask a senior employee at that site, Mr Armstrong, who was not a risk of redundancy, to undertake some individual consultation with the production team for whom he was the line manager at the Langley Moor site. He did not volunteer nor was he elected as an employee representative to undertake that consultation.
- 5) Individual consultations were undertaken with a number of individual employees in the production team. However, that consultation was meaningless and effectively a complete sham as the decision to close the Langley Moor site had already been taken and any comments made by the employees appear to have been effectively ignored. Furthermore, it

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appears from the witness statement of Mr Baines that any suggestions made by the employees (he suggested working for no pay at one point) were entirely ignored. Indeed, Mr Baines in his statement suggests that the director who was undertaking the individual consultation with him – Mr Michael Donoghue – agreed that the consultation meetings were a waste of his time and pointless.

- 6) Subsequently on 9 January 2019 the company decided that it had to close all of its sites which included the site not only Langley Moor, but the largest site at Killingworth and the site at Belmont. There was no consultation with any employees nor any collective consultation whatsoever in relation to that decision. The majority of the employees were dismissed on 9 January 2019, although a few stayed to assist the administrators.
- 7) Accordingly, this Tribunal finds that there was no collective consultation as required under Sections 188 – 189 of the Trade Union and Labour Relations Act 1992. It concludes that a protective award should be made to all the claimants.
- 8) The Tribunal has considered the case of Susie Radin and reviewed the guidance in that case as to the amount of any award. The Tribunal does not consider that there is any reason to depart from the maximum award set out in that case, because there was as a complete failure to comply with the requirement for collective redundancy, despite attempts to undertake some individual consultation at Langley Moor

Employment Judge Martin

Date 17 September 2019

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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