



EMPLOYMENT TRIBUNALS

Claimant

Mr W Tonks

v

First Respondent

Metsac Lattice Beams Ltd (in administration)

Second Respondent

Secretary of State for Business,
Energy and Industrial Strategy

Heard at: Birmingham Employment Tribunal **On:** 4 February 2020

Before: Employment Judge Johnson

Appearances

For the Claimant: Ms R Bull (solicitor)

For the Respondents: No attendance

JUDGMENT

The judgment of the Employment Judge sitting alone is that:

1. The claimant was employed by the first respondent and was among some 28 employees who were dismissed as redundant on 1 March 2019. The respondent went into Administration on 28 February 2019.
2. I declare that the complaint that the first respondent failed to comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well founded.
3. I make a protective award in respect of the claimant and order the respondents to pay him remuneration for the protected period of 90 days beginning on 1 March 2019.
4. **NOTE:** the following statement is given under Regulation 5 (2) (b) of the Employment Protection (Recoupment of Benefits) Regulations 1996 ("the

Regulations”) and advises the respondents of its duties under regulation 6, and of the effect of Regulations 7 and 8, of the Regulations:

- (1) The respondents are required to give to the Benefits Agency in writing:
 - (a) the name, address and National Insurance number of every employee to whom the above protective award relates; and,
 - (b) the date of termination (or proposed termination) of the employment of each such employee.
- (2) The respondents are required to comply with paragraph (1) above within the period of 10 days commencing on the date on which the judgment was announced at the hearing, or, if it was not so announced, the date on which the judgment was sent to the parties.
- (3) No remuneration due to an employee under the protective award shall be paid to him until the Benefits Agency has (a) served on the respondents a notice (“a recoupment notice”) to pay the whole or part of the award to the Benefits Agency or (b) informed the respondents in writing that no recoupment notice is to be served.
- (4) The sum due to the Benefits Agency under a recoupment notice shall be the lesser of:
 - (a) the amount (less any tax or social security contributions which fall to be deducted by the respondent) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Benefits Agency receives from the respondent the information mentioned at paragraph (1) above; and,
 - (b) the amount paid by way of, or as on account of, jobseeker’s allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date mentioned at (a) above.
- (5) The sum due under the recoupment notice shall be paid forthwith to the Benefits Agency. The balance of the protective award shall then (subject to deduction of any tax or social security contributions) be paid to the employee.
- (6) The Benefits Agency shall serve a recoupment notice within the period of 21 days after the date mentioned at paragraph 4 (b) above, or as soon as practicable thereafter.
- (7) Payment by the respondents to the employee of the balance of the protective award (subject to deduction of any tax or social security contributions) is a complete discharge of respondent in respect of any sum so paid.

- (8) The sum claimed in a recoupment notice is due as a debt by the respondents to the Benefits Agency, whatever may have been paid to the employee and whether or not there is any dispute between the employee and the Benefits Agency as to the amount specified in the recoupment notice.

Signed by: Employment Judge Johnson

Signed on: 4 February 2020

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.