



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4111438/2019

Mrs S Steventon

Claimant

Border Cars Group (In Administration)

Respondents

JUDGMENT

Rule 21 of the Employment Tribunal Rules of Procedure 2013

No response has been presented to this claim and an Employment Judge has decided to issue the following judgment on the available material under rule 21:

- (1) It is found and declared that the respondents failed to comply with the requirements of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992; and;
- (2) The Tribunal makes a Protective Award in terms of Section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 in respect of the claimant.

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The claimant was made redundant. She was made redundant on 19 July 2019. The respondents are ordered to pay remuneration to the claimant for the protected period of 90 days, that being between 19 July 2019 and 17 October 2019.

REASONS

1. This case was presented by the claimant following upon termination of her employment. Termination of her employment occurred due to redundancy. Consent of the administrator to bring this claim was given.
2. The claim is in respect of a Protective Award in terms of the Trade Union and Labour Relations (Consolidation) Act 1992. It proceeds on the basis that there was no consultation with the claimant prior to termination of her employment.

3. In those circumstances, although no form ET3 was presented, a hearing was set down in the case brought by the claimant and that brought by several other employees of the company Border Cars Group Limited. That hearing was set down for 3 February 2020 at Dumfries.
4. The claimant did not appear at that hearing. On 3 February evidence was heard from several former employees. Each of the witnesses gave the same details as to how their employment had ended. That involved an email being sent to most of them informing them of termination of employment. In some instances, a conversation with the employee took place informing them of termination of their employment that day. Prior to that email or conversation, there had been no consultation with them.
5. The claimant in her claim form says that she was told on the day of termination of employment that it was ending. Until she received that information, she was unaware of her employment being at risk. She confirmed that there was no consultation or advance notice of termination of her employment.
6. The day after the hearing was scheduled, the claimant sent an email to the Tribunal apologising for not been present at the hearing. She explained that she was unable

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to attend due to making arrangements for care of her parents and had overlooked the hearing.

7. I considered the information which I had from other employees and the Judgment issued in the case brought by former colleagues of the claimant. That Judgment was dated 5 February 2020.
8. I came to the view that given the facts found in that Judgment, given the narration of facts set out in the claim presented by the claimant and given the absence of resistance to the claim, the terms of Rule 21 enabled me to make a determination of the claim. That enabled me to issue a Judgment in the terms set out above.
9. On the basis therefore that there was no consultation with the claimant and that there were no special circumstances justifying departure from the provisions of the 1992 Act and the obligation of consultation imposed in terms of that Act, the protective award is made in respect of the 90 day period running from date of termination of employment of the claimant.

Employment Judge: Robert Gall
Date of Judgement: 07 February 2020
Entered in register: 07 February 2020
And copied to parties