



Case Numbers: see attached
schedule

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Respondent

Mrs L Quinn and others
(see attached schedule)

-v-

**Berck Limited (in Creditors'
Voluntary Liquidation)**

MERITS HEARING

Heard at: **Birmingham**

On: **21 January 2020**

Before: **Employment Judge Perry**

Appearances

For the Claimant: **in person**

For the Respondent: **none**

ORDER

1. For the avoidance of doubt the additional duplicate claim of Mr Stuart Bakewell (1301282/2019) which previously appeared to have been consolidated with this multiple claim is hereby consolidated with the multiple. No issue arises on the basis that duplicates another claim made by Mr Bakewell.
2. Each of the claimant present having confirmed they have been paid any monies due by the National Insurance Fund in relation to their claims for wages, holiday pay, notice and redundancy pay, in the absence of objections being received within the next 14 days from any claimant, those complaints shall be treated as dismissed on withdrawal.

JUDGMENT

The judgment of the Tribunal is as follows:-

1. In this Judgment "the claimants" means those listed in the Schedule hereto.
2. The claimants were employed by the respondent and were among some 62 or so employees who were dismissed as redundant on **20 December 2018** whose place of work was the respondent's site at Pleasant Street, West Bromwich.
3. For those complaints that were not presented in time in my judgment it was not reasonably practicable for them to be presented in time and they were presented within a further reasonable period.
4. I declare that the complaints that the respondent failed to comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 are well founded.
5. I make a protective award in respect of each of the claimants (for the claims not marked duplicate) and order the respondent to pay to each of the claimants' remuneration for the protected period of 90 days beginning on **20 December 2018**.

Employment Judge Perry

28 January 2020



NOTE:

the following statement is given under Regulation 5 (2) (b) of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 ("the Regulations") and advises the respondent of its duties under regulation 6, and of the effect of Regulations 7 and 8, of the Regulations.

- (1) The respondent is 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 respondent is 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 respondent a notice ("a recoupment notice") to pay the whole or part of the award to the Benefits Agency or (b) informed the respondent 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:
 - (i) 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
 - (ii) 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 (i) 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 (ii) above, or as soon as practicable thereafter.
- (7) Payment by the respondent 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 respondent 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.



Case Numbers: see attached
schedule

THE SCHEDULE

1301200/2019	Mrs Lisa Quinn
1301248/2019	Mr Raymond Jones
1301249/2019	Mrs Lisa Quinn (duplicate claim)
1301259/2019	Mr Mark Poole
1301282/2019	Mr Stuart Bakewell
1301289/2019	Mr Ray McGachie
1301290/2019	Mr Ray McGachie (duplicate claim)
1301294/2019	Mr Barry Wallace
1301310/2019	Mr Minesh Patel
1301840/2019	Mrs Alifa Waldron
1301841/2019	Mr Terence Griffin
1301842/2019	Mrs Michaela Guest
1301843/2019	Mrs Tracey Poole
1301844/2019	Mr John Poole
1301845/2019	Mr Paul Harwood
1301846/2019	Mrs Dawn Bate
1301847/2019	Mr Steve Bettridge
1301848/2019	Mr Neil Tolley
1301849/2019	Mr Christopher Morton
1301850/2019	Mrs Tracey Morton
1301851/2019	Mr Craig Atterbury
1301852/2019	Mr Pradeep Kumar
1301853/2019	Mr Ricki Power
1301854/2019	Mrs Alifa Waldron (duplicate claim)
1301855/2019	Mr Philip Franklin
1301856/2019	Mrs Wendy Franklin
1301857/2019	Mrs Gail Hopkins
1301858/2019	Mrs Mariana Bocea
1301859/2019	Ms Ann Smith
1301860/2019	Mr John Szum
1301861/2019	Mrs Tracy Bartlett
1301862/2019	Mrs Chetna Patel
1301863/2019	Mrs Valerie Clarke
1301864/2019	Mrs Kashmir Kaur
1301865/2019	Mr William Riley
1301866/2019	Mr Philip Allen
1301867/2019	Mr Ray McGachie (duplicate claim)
1301868/2019	Mr David Killarney
1301869/2019	Mr Stuart Bakewell (duplicate claim)
1301870/2019	Miss Laura Thornton
1301871/2019	Mrs Loretta James
1302057/2019	Mrs Loretta James (duplicate claim)
1306075/2019	Mrs Rita Stephen