



EMPLOYMENT TRIBUNALS

Claimants: Mr G Ackers & others (See Schedule)

Respondent: Premiere Handling Ltd
(In creditors' voluntary liquidation)

JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

The respondent not having presented a response and indicating its intention not to resist the claims, and on the information before the Judge particularly in the witness statement of Mr R Maxwell,

The judgment of the Tribunal is that:

- 1) The claims are all well-founded in that the respondent failed to comply with its statutory collective consultation obligations under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 before proposed redundancy dismissals took effect at its establishment at Terminal 1, Manchester Airport, M90 3AF on 16 August 2019 in respect of the whole workforce employed there.
- 2) Under Section 189(1)(d), (2), (3) and (4) of the 1992 Act, the Tribunal makes a protective award in respect of the each of the claimants named in the schedule and the respondent is ordered to pay remuneration to them for a protected period of 90 days beginning on 16 August 2019.
- 3) The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

REASONS

1. By a claim form presented on 15 November 2019, the claimants all claimed a protective award in respect of breach of the collective consultation requirements.
2. No response was presented to the claims by the respondent which wrote on 20 February 2020 explaining that it did not resist the claims.
3. On a full consideration of the file of proceedings, with a witness statement provided by Mr R Maxwell for the claimants, it was possible to issue this Judgment under Rule 21 without a hearing. Code P under the case number above reflects this.
4. On the information provided, the Tribunal makes the following findings. The respondent carried on an aircraft dispatch and ground handling business employing at least 84 employees at Terminal 1, Manchester Airport. Whilst these claimants are members of Unite the Union, there was no independent trade union recognised for collective bargaining, consultation or negotiation with the workforce. No employee representatives had been elected or appointed for any such consultation under Section 188A of the 1992 Act.
5. By summer 2019, the respondent was in financial difficulty. Payment of wages for June 2019 was only made in part and the claimants were not rostered to work after 5 July 2019 but were not formally dismissed or laid off at that time. They were then dismissed for redundancy by letter dated 16 August 2019 by the insolvency practitioners who later became the respondent's liquidators. The respondent company was formally put into creditors' voluntary liquidation on 22 August 2019. No collective information and consultation of any kind was carried out by the respondent.
6. In these circumstances, the respondent was in breach of its collective information and consultation obligation under Section 188 of the 1992 Act and the Tribunal makes an award under Section 189 in favour of each claimant named in the schedule for the maximum protected period of 90 days commencing on 16 August 2019.
7. The respondent is advised of the provisions of Regulation 5 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within 10 days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the first respondent must comply with the provisions of Regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State the following information in writing:
 - (a) the name, address and national insurance number of every employee to whom the award relates; and
 - (b) the date of termination of the employment of each such employee.

7. The respondent will not be required to make any payment under the protective awards made until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the first respondent.

Regional Employment Judge Parkin

Date: 23 April 2020

JUDGMENT SENT TO THE PARTIES ON
27 April 2020

FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Multiple Schedule

Premiere Handling Limited - In Creditors' Voluntary Liquidation

Case Number	Case Name
2414597/2019	Mr Gaven Ackers -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414598/2019	Mr David Adams -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414599/2019	Mr Raymond Ahern -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414600/2019	Mr Keith Ancell -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414601/2019	Miss Marie Armoogum -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414602/2019	Mr Roderick Ballesteros -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414603/2019	Mrs Iman Bibi -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414604/2019	Mr Paul Bransom -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414605/2019	Mr Brett Buckley -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414606/2019	Mr David Burton -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414607/2019	Mr Scott Bush -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414608/2019	Mr Jonathon Cable -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414609/2019	Mr Nicholas Carter -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414610/2019	Mr Michael Cattigan -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414611/2019	Miss Anna Cheung -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414612/2019	Mr Jamie Cloran -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414613/2019	Mr John Cooper -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414614/2019	Mr Adam Davies -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414615/2019	Mr Louis Finnie -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414616/2019	Mr John Goonan -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414617/2019	Mr Karl Hargeaves -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414618/2019	Mrs Rabia Hasan -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414619/2019	Mrs Michelle Herbert -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414620/2019	Mr Reece Horner -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414621/2019	Mr Ahmed Hussain -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414622/2019	Mr Matthew Lloyd -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414623/2019	Mr Alistair Lloyd-Jones -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414624/2019	Mr Robert Maxwell -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414625/2019	Mr Steven McDonnell -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414626/2019	Mr James McDowell -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414627/2019	Mr Stephen Molloy -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414628/2019	Mr Jason Mycock -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414629/2019	Miss Megan Nowell -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414630/2019	Mr Jake Oram -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414631/2019	Mr Ronald Phelan -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414632/2019	Mrs Jayne Rostant -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414633/2019	Mr Ben Shaw -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414634/2019	Mrs Louise Townsend -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414635/2019	Mr Bradley Trafford -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414636/2019	Mr Daniel Williams -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414637/2019	Mr Clinton Woollams -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation
2414638/2019	Mr Stephen Wright -v- Premiere Handling Limited - In Creditors' Voluntary Liquidation

Claimant: Mr G Ackers & Others

**Respondent: Premiere Handling Limited - In Creditors' Voluntary
Liquidation**

**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (a) the amount (less any tax or social security contributions which fall to be deducted the refrom by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR

- (b) (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or

- (ii) in the case of an employee entitled to an award of universal credit for any period ("the UC period") which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or on account of universal credit for the UC period that would not have been paid if the person's earned income for that period was the same as immediately before the period to which the prescribed element is attributable.

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.