



# EMPLOYMENT TRIBUNALS

**Claimant:** Neil Sheridan & Others (see schedule)

**Respondent:** Safehands Holidays Limited (In Voluntary Liquidation)

## JUDGMENT

### Employment Tribunals Rules of Procedure 2013 – Rule 21

The respondent not having presented a response to the claim, and on the information before Employment Judge S Moore particularly in the statement of the claimants dated 18 February 2020 and accompanying documentation.

The judgment of the Tribunal is that:

- 1) The claim is 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 the Esplanade Hotel, Llandudno on 15 November 2019.
- 2) Under Section 189(1)(d), (2), (3) and (4), the Tribunal makes a protective award in respect of each claimant named in the Schedule and the respondent is ordered to pay remuneration to such claimants for a protected period of 90 days beginning on 15 November 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 18 January 2020, the claimants claimed a protective award arising from their dismissals for redundancy on 15 November 2019 which in turn resulted from the decision to close the respondent hotel in Llandudno. The claimants were informed of the decision on 11 November 2019.

2. No response was presented. The claimants provided a written account from Mr N Sheridan dated 18 February 2020 and accompanying financial documentation about the respondent. From the information provided, the Tribunal makes the following findings.
3. At 4pm on Monday 11 November 2019 all staff at the Esplanade Hotel, Llandudno were informed they were being made redundant as of 10am on Friday 15 November 2019. There had been no prior consultation. There was no recognised trade union for collective bargaining consultation and negotiation on behalf of employees.
4. There was no appointment of employee representatives or opportunity for election of employee representatives within Section 188A. No valid consultation within the meaning of Section 188(2) and (4) of the Trade Union and Labour Relations (Consolidation) Act 1992 was carried out before the redundancy dismissals were put into effect. The dismissals affected all members of staff and took place on or about 15 November 2019.
5. The Director's Report on the Company's Affairs dated 25 November 2019, signed by Mr W Rigby, director of the respondent stated that during 2018 the respondent's bank instructed RSM Restructuring Advisor LLP to undertake a review of the Group's cash flow forecast and refinancing proposals. The report indicated the Group would not be able to trade beyond 2018 without further funding. The directors placed the hotels on the market in January 2019 but no buyer was found. On 7 November 2019, the Directors engaged RSM to commence steps to place the respondent into Creditors Voluntary Liquidation.
6. In these circumstances, the respondent is in breach of the duty under Section 188 and the Tribunal makes an award under Section 189 in favour of all claimants who were dismissed as redundant on the closure of the hotel for the maximum protected period of 90 days commencing on 15 November 2019.
7. The claimants have made claims to the Redundancy Payments Service in respect of their redundancy pay and notice pay. Their claims for a protective award remained to be determined by the Tribunal.

#### Recoupment

8. 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 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.
9. 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

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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 respondent.

Employment Judge Moore

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Date: 28 July 2020

JUDGMENT SENT TO THE PARTIES ON

12 August 2020

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FOR THE TRIBUNAL OFFICE

Schedule of Claimants

1600327/2020 Mr N Sheridan  
1600328/2020 Mr P Clarke  
1600329/2020 Mr S Davies  
1600330/2020 Ms C Davies  
1600331/2020 Mr N Barlow  
1600332/2020 Mr H Mitchell