



EMPLOYMENT TRIBUNALS

Claimants: Miss S Kennedy
Mrs D Hales
Mrs W Adamson
Mrs S Garner

Respondent 1: Mr J Pushpanayagam
Respondent 2: Mrs J Wisker

HELD AT: Hull

ON: 15 and 16 October 2020

BEFORE: Employment Judge T R Smith
Mr J Shah
Mrs N Arshad-Mather

REPRESENTATION:

Claimants: In person
Respondents: In person

JUDGMENT

Transfer of Undertakings (Protection of Employment) Regulations 2006

1. There was a transfer within the meaning of the regulations between the second and first respondent on or about 3 January 2019.

A failure to inform or consult under the TUPE Regulations

2. The Tribunal declares that there was a failure to inform or consult all the claimants under the regulations.
3. The first claimant is awarded 13 weeks' pay namely £3986.71.
4. The second claimant is awarded 13 weeks' pay namely £2213.93.
5. The third claimant is awarded 13 weeks' pay namely £1246.92.

6. The fourth claimant is awarded 13 weeks' pay namely £1246.92.
7. Neither the second nor the first respondent have established there were special circumstances which rendered it not reasonably practicable to perform the duty imposed under Regulation 13.
8. The liability for the payments to the claimant is joint and several between the second and first respondent.

Breach of contract/notice pay

9. The complaint of the third claimant is not well founded and is dismissed.
10. The complaint of the fourth claimant is partly well founded and she is awarded damages for breach of contract amounting to £33.27. The said sum is payable by the first respondent.

Constructive unfair dismissal

11. The first claimant was constructively unfairly dismissed and she is awarded compensation of £1220.01. The said sum is payable by the first respondent.
12. The second claimant was constructively unfairly dismissed and she is awarded compensation of £1216.50. The said sum is payable by the first respondent.
13. The recoupment regulations do not apply.

Unlawful deduction from wages

14. The complaints of the first, second, third and fourth claimants of unlawful deduction from wages is well founded and the Tribunal declares so accordingly.
15. The first claimant is awarded the sum of £202.27.
16. The second claimant is awarded the sum of £170.30.
17. The third claimant is awarded the sum of £162.47.
18. The fourth claimant is awarded the sum of £62.64.
19. The first respondent is solely responsible for the payment of the unlawful deduction from wages.

Failure to provide written particulars of employment

20. The complaints of the first, second, third and fourth claimant are well founded and the Tribunal makes an award of two weeks' pay per claimant as follows:
First claimant $£306.67 \times 2 = £613.35$
Second claimant $£170.32 \times 2 = £340.62$.
Third claimant $£95.91 \times 2 = £191.83$.
Fourth claimant $£95.91 \times 2 = £191.83$.

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Liability rests with the second respondent but pursuant to Regulation 4 of the TUPE Regulations it passes solely to the first respondent.

Employment Judge T R Smith

26 October 2020