



EMPLOYMENT TRIBUNALS

Claimant: Mr Jake Shannon

Respondent: (1) H Docherty Ltd in Voluntary Liquidation
(2) Secretary of State for Business, Enterprise and Industrial Strategy

Heard at: Birmingham

On: 30 October 2020

Before: Employment Judge Battisby (sitting alone)

Representation

Claimant: In person
First Respondent: No attendance
Second Respondent: No attendance

JUDGMENT

1. There being no recognised trade union or elected employee representatives, the claimant has standing to bring this claim.
2. The complaint that the first respondent failed to comply with a requirement of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well-founded.
3. The tribunal makes a protective award in respect of all employees of the first respondent, including the claimant, who were dismissed as redundant on or after 16 July 2019 and orders the first respondent to pay to those

employees remuneration for the protected period of 90 days beginning on 16 July 2019.

Employment Judge Battisby
30 October 2020

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

RECOUPMENT

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") (as amended) 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, Job Seeker's Allowance, Income-Related Support Allowance, Universal Credit 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 the 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.