



# EMPLOYMENT TRIBUNALS

**Claimants:** Mrs L Gunning & others (please see attached schedule)

**Respondent:** Façade & Glazing Solutions UK Limited (in voluntary liquidation)

**Heard at:** Leeds Employment Tribunal by CVP

**On:** 16 November 2020

**Before:** Employment Judge Deeley (sitting alone)

## Appearances

### *For the claimants:*

- Mrs Gunning (for herself and 128 claimants)
- Mr Shah (solicitor for Mr W Ferguson)
- Claimants listed at Schedule 1 (representing themselves)

*For the respondent:* no attendance

## JUDGMENT - COLLECTIVE REDUNDANCY CONSULTATION CLAIM ONLY

1. The Tribunal declares that the complaint of the claimants (save for Tina Greaves) that the respondent failed to comply with the requirements of s188 of the Trade Union & Labour Relations (Consolidation) Act 1992 is well-founded.
2. The Tribunal makes a protective award of 90 days' pay in respect of the claimants (save for Ms Greaves), who were dismissed as redundant with effect from 6 January 2020. The Tribunal orders the respondent to pay those claimants their remuneration for the protected period of 90 days beginning on 6 January 2020.
3. By way of clarification:
  - 3.1 Ms Greaves' claim has been submitted outside of the normal time limits and cannot be determined until the Tribunal has decided whether or not it was reasonably practicable for her to submit her claim within the normal time limits. Ms Greaves has been asked to provide an explanation as to why her

- claim was not submitted within the normal time limits as part of the Tribunal's separate case management orders;
- 3.2 separate judgments shall be issued in relation to any Additional Claims (as defined in the Notes to this judgment), if (and to the extent that) such claims were decided during this hearing; and
  - 3.3 further case management orders shall be issued in relation to any other Additional Claims.

## NOTES

### Claims

#### *Collective Redundancy Consultation claim (protective award)*

4. All of the claimants claimed that they were dismissed without any collective redundancy consultation. Each claimant claimed that they should be paid a '**protective award**' because of the respondent's failure to inform and consult on a collective basis regarding their redundancy, as required by s188 of the Trade Union and Labour Relations (Consolidation) Act 1992.

#### *Additional Claims*

5. Some of the claimants have submitted other claims to the Tribunal for additional payments, such as:
  - 5.1 unpaid wages and breach of contract (e.g. unpaid overtime pay, unpaid bonuses, contractual redundancy pay and failure to pay for university course fees);
  - 5.2 holiday pay;
  - 5.3 notice pay;
  - 5.4 statutory redundancy pay.
6. I have referred to these claims as the "**Additional Claims**" in this judgment. A separate document containing case management orders has been sent to the claimants.

### Useful information

7. The reasons for this judgment were given to the parties orally during this hearing. Written reasons will not be provided unless a request was made by any party at the hearing or a written request is presented by any party within 14 days of the sending of this written record of the decision.
8. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

9. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>

## RECOUPMENT NOTICE

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.

**Case Number: 1800585/20 & others CVP**

(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.

**Employment Judge Deeley  
16 November 2020**

**Schedule 1 – Claimants who attended the hearing on 16 November 2020**

Mr N Armstrong  
Mr A Levitt  
Mr J Marshall  
Mr P Rose  
Mr P Wilson  
Mr J Myskiw  
Mr R Senior  
Mrs K Lowe  
Mr R Johnson  
Mr N Armitage  
Mr P Langham  
Mr S Barklam  
Mrs N Faley  
Mr D O'Donnell  
Mr A Parry  
Mr M Bradbury  
Mr J Adams  
Mr A Sleight  
Mr D Jackson  
Mr R Crawford  
Mr K Slack