



EMPLOYMENT TRIBUNALS

BETWEEN

Claimants

Mr J Pearce and 44 Others

AND

Respondents

The Secretary of State

For Business Energy and Industrial Strategy (1)

Fifteen Cornwall Limited (In Voluntary Creditors' Liquidation) (2)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Plymouth
By Cloud Video Platform Plus

ON

20 November 2020

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimants: Mr Martin Jackson, Citizens' Advice Cornwall
For the First Respondent: Did not attend, Written Submissions
For the Second Respondent: Did not attend

JUDGMENT

The judgment of the Employment Judge sitting alone is that:

1. The complaint that the second respondent failed to comply with a requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well founded.
2. The tribunal makes a protective award in respect of employees of the second respondent at its premises at Fifteen Restaurant, On the Beach, Watergate Bay, Newquay Cornwall, TR8 4AA who were dismissed as redundant on or after 12 December 2019 and orders the respondent to pay those employees remuneration for the protected period of 90 days beginning on 12 December 2019. The tribunal declares that each such employee is entitled to an award in respect of 90 days, irrespective of the date of termination of his or her employment.

REASONS

1. This is a claim for a protective award brought by Mr J Pearce and 44 others who are the claimants listed in the attached schedule (“the Claimants”).
2. I have considered the evidence before me, both oral and documentary, and I have considered the legal and factual submissions made by and on behalf of the respective parties. I find the following facts proven on the balance of probabilities.
3. The second respondent company Fifteen Cornwall Limited (“Fifteen”) and its parent charity Cornwall Food Foundation Limited (“CFF”) were companies established by the celebrity chef Jamie Oliver and both companies entered Voluntary Creditors’ Liquidation on 8 January 2020. There is a separate judgment of today’s date dealing with the former employees of Cornwall Food Foundation Limited.
4. The second respondent company Fifteen employed 56 people and their normal place of work was at 15 Restaurant, On the Beach, Watergate Bay, Newquay Cornwall TR8 4AA. At a meeting on 12 December 2019 the Claimants were informed that both Fifteen and CFF had ceased trading with immediate effect and that all staff were to be made redundant with immediate effect, except a handful of staff who would be retained to assist the insolvency practitioners, but only until 19 December 2019.
5. There was no independent recognised trade union and there was no Staff Association or other elected employee representative body.
6. The respondent failed to undertake any or any adequate consultation with the Claimant’s prior to the dismissals.
7. Having found the above facts I now apply the law.
8. The relevant law is in the Trade Union and Labour Relations (Consultation) Act 1992 (“TULRCA”).
9. Section 188(1) of TULRCA provides as follows: “Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals”. S188(1A) provides that “The consultation shall begin in good time and in any event – (a) where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1), at least 90 days, and (b) otherwise, at least 30 days, before the first of the dismissals takes effect.
10. S 188(1B) provides that: “For the purposes of this section the appropriate representatives of any affected employees are – (a) if the employees of a description in respect of which an independent trade union is recognised by their employer, representatives of the trade union, or (b) in any other case, whichever of the following employee representatives the employer chooses:- (i) employee representatives appointed or elected by the affected employees otherwise than for the purposes of this section who (having regard to the purposes for and the method by which they were appointed or

- elected) have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf; (ii) employee representatives elected by the affected employees, for the purposes of this section, in an election satisfying the requirements of section 188A(1).”
11. S 188(2): provides that; “The consultation shall include consultation about ways of – (a) avoiding the dismissals, (b) reducing the numbers of employees to be dismissed, and (c) mitigating the consequences of the dismissals, and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.”
 12. Section 188(4) provides: “For the purposes of the consultation the employer shall disclose in writing to the appropriate representatives – (a) the reasons for his proposals, (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant, (c) the total number of employees of any such description employed by the employer at the establishment in question, (d) the proposed method of selecting the employees who may be dismissed, (e) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which any dismissals are to take effect, (f) the proposed method of calculating the amount of any redundancy payments to be made (otherwise than in compliance with the obligation imposed by or by virtue of any enactment) to employees who may be dismissed, (g) the number of agency workers working temporarily for and under the supervision and direction of the employer, (h) the parts of the employer's undertaking in which those agency workers are working, and (i) the type of work are those agency workers are carrying out.”
 13. Section 188(5) provides: “That information shall be given to each of the appropriate representatives by being delivered to them, or sent by post to an address notified by them to the employer, or in the case of representatives of a trade union sent by post to the union at the address of its head or main office.”
 14. In this case it is clear that the second respondent failed to comply with a requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, and accordingly I make the above protected award.

Employment Judge N J Roper
Dated 20 November 2020
Judgment sent to Parties on

The Claimants (Fifteen Cornwall Ltd)

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|------------|----------------------|
| 1401076/20 | Mr J Pearce |
| 1401133/20 | Ms K Sandow |
| 1401134/20 | Ms C Yeo |
| 1401257/20 | Mrs L Abbott |
| 1401258/20 | Mr D Anderson |
| 1401259/20 | Miss J Bailey |
| 1401260/20 | Mr A Banks |
| 1401261/20 | Mr M Beck |
| 1401262/20 | Mr L Bennett |
| 1401263/20 | Mrs S Borman |
| 1401264/20 | Mr A Bunnell |
| 1401265/20 | Mrs L Cascarina |
| 1401266/20 | Miss M Chaves |
| 1401267/20 | Mrs C Chown |
| 1401268/20 | Miss K Cork |
| 1401269/20 | Miss C Croker |
| 1401270/20 | Miss S Curtis |
| 1401271/20 | Mr S Daniels |
| 1401272/20 | Miss L Dearn |
| 1401273/20 | Mr S Ellis |
| 1401274/20 | Miss S Fillingham |
| 1401275/20 | Ms L Funnell |
| 1401276/20 | Mr G Goodson |
| 1401277/20 | Miss A Hill |
| 1401278/20 | Miss G Jaggs |
| 1401279/20 | Mr M Mallett |
| 1401280/20 | Mr P Margarson |
| 1401281/20 | Mr E Meska |
| 1401282/20 | Mr G Meska |
| 1401283/20 | Mr I Meska |
| 1401284/20 | Mr D Murray |
| 1401285/20 | Miss E Nalewajek |
| 1401286/20 | Miss L Oakley |
| 1401287/20 | Mrs T Oakley |
| 1401288/20 | Mr C Old |
| 1401289/20 | Miss S Perry |
| 1401290/20 | Mr A Richardson |
| 1401291/20 | Mrs S Sanchez |
| 1401292/20 | Mrs C Scott |
| 1401293/20 | Miss K Scullion |
| 1401294/20 | Mr R Souray |
| 1401295/20 | Mr A Thompson |
| 1401296/20 | Mrs T Townsend Green |
| 1401297/20 | Mr G Turner Deeks |
| 1401298/20 | Ms S Zhen-Ying |