



EMPLOYMENT TRIBUNALS

Claimants: Lee Griffiths
Damien Fowler
Darren Curzon
David Daly
Jancek Ganczarski
Robert Krystifik
Michael Noszczyński

Respondent: Total Polyfilm Limited (in administration)

Heard at: Manchester

On: 17 December 2020

Before: Employment Judge Porter (sitting alone)

Representation

Claimants: Written representations from Thompsons solicitors

Respondent: Not in attendance.

JUDGMENT

The judgment of the Tribunal is that:

1. The complaints that the Respondent has failed to comply with the requirements of sections 188 and/or 188A of the Trade Union and Labour Relations (Consolidation) Act 1992 are well founded.

2. Each of the claimants is entitled to a protective award for a period of 90 days commencing from 18 September 2019.

REASONS

1. This has been a hearing on the papers which has not been objected to by the parties. The form of remote hearing was Code P, a paper determination which is not provisional. A face to face hearing was not held because it was not practicable and all issues could be determined on paper.
2. The tribunal considered the written submission received from Thompsons solicitors together with the documents therein referred to, including the signed witness statement of Mr Damien Fowler. The tribunal also considered the Response.
3. Each of the claimants was employed by the respondent at Unit 95, Seedlee Road, Bamber Bridge, Preston (the establishment).
4. More than 20 employees of the respondent worked at the establishment.
5. There was no recognised trade union. There were no employee representatives and the Respondent made no arrangements for the election of employee representatives.
6. The respondent company entered into administration and joint administrators were appointed on 18 September 2019. The administrators declared the intention to make all employees redundant immediately, retaining a few employees to assist in the winding down of the company. The respondent made more than 20 employees redundant at the establishment within a period of 30 days or less. The date on which the first of the dismissals took effect was 18 September 2019.
7. Each of the claimants was dismissed by reason of redundancy as part of that redundancy exercise announced on 18 September 2019.
8. Each of the Claimants is an affected employee dismissed as redundant under s.189(1)(a) TULR(C)A 1992 and/or s.189(1)(d).
9. There was no consultation prior to the dismissals.
10. There were no special or mitigating circumstances surrounding the Respondent's insolvency and none have been demonstrated by the Respondent. The Respondent does not assert any special circumstances defence in the ET3.
11. In all the circumstances, following the cases of *Middlesbrough Borough Council –v- TGWU & Another* [2002] IRLR 332 and *Susie Radin Limited – v- GMB & Others* [2004] IRLR 400, it is appropriate to make a protective award for the period of 90 days.

Case Nos: 2401128/2020;2401129/2020; 2401130/2020;
2401131/2020; 2401132/2020; 2401133/2020; 2401135/2020

Code: P

Employment Judge Porter
Date: 17 December 2020

JUDGMENT SENT TO THE PARTIES ON
15 January 2021

FOR THE TRIBUNAL OFFICE

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