



# EMPLOYMENT TRIBUNALS

**Claimant: Mrs L Oldroyd and others**

**Respondent: Monsoon Accessorise Ltd (In Administration)**

**Heard at: Leeds**

**On: 19 January 2021**

**This was a CVP video hearing which was agreed in advance.**

**Before: Employment Judge Shepherd**

**Members: Mr G Corbett  
Mr W Roberts**

## **Appearances**

**For the claimants: Mrs Oldroyd**

**For the respondent: No appearance**

## **JUDGMENT**

The unanimous judgment of the Tribunal is that:.

1. The claims for protective awards for failure to consult pursuant to section 188(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 are dismissed.
2. The claims for outstanding holiday pay are dismissed as the Administrator has not provided consent to the commencing or continuation of those proceedings.

## **REASONS**

1. The Tribunal heard evidence from Louise Oldroyd on behalf of all 11 claimants in this case.
2. The claim is in respect of the respondent's store in York. Mrs Oldroyd was the store manager. There were 18 employees at the shop which closed on 10 June 2020.

3. The Administrator gave consent to the commencing of the proceedings in respect of the claim for a protective award the lack of consultation. No consent was provided in respect of the claims for outstanding holiday pay.

4. Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides:

(1) Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within the period of 90 days or less, the employer shall consult about the dismissals all persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissal...

5. The case of *USDAW v WW Realisation 1 Ltd* [2015] 577 considered the question of whether each individual Woolworths/Ethel Austin shops which had been closed following the collapse of the UK chain was a separate establishment (therefore requiring at least 20 dismissals per store to trigger a consultation requirement) or whether the whole chain of shops formed the establishment in which case consultation would be triggered by the fact that the number of redundancies across the chain (around 30,000 in total) far exceeded 20. The case was referred to the European Court of Justice. It was determined that an “establishment” is the local employment unit as opposed to the whole of the enterprise or undertaking.

6. In this case there were 14 employees at the York store and as each store is classed as a separate establishment, the collective consultation rules do not apply to those stores with under 20 employees who were made redundant.

7. The Tribunal has considerable sympathy with the claimants. Louise Oldroyd has done what she could for the employees at the York store.

8. It gives the Tribunal no pleasure to dismiss these claims. However, it is unable to find in favour of the claimant as the requirement for collective consultation does not apply.

**Employment Judge Shepherd**

**19 January 2021**