



EMPLOYMENT TRIBUNALS

Claimants: Segolene Surrel, Charles Calver and Omid Pakseresht

Respondent: Clear Artificial Intelligence Limited (in Administration)

Heard at: London South Employment Tribunal, via CVP.

On: 13th May 2021

Before: Employment Judge Apted

Representation

Claimants: self-represented.

Respondent: did not attend

JUDGMENT

The hearing has been a remote, hearing which was not objected to by the parties. The form of remote hearing was video by Cloud Video Platform (CVP). A face-to-face hearing was not held because it was not practicable because of the Covid-19 virus.

1. The respondent is amended to Clear Artificial Intelligence Limited (in Administration).
2. Between them, the three claimants have variously brought claims for unpaid wages, holiday pay, notice pay and unfair dismissal against the respondent.
3. Segolene Surrel lodged a claim on form ET1 on the 12th June 2020. She was last paid by the respondent on the 31st March 2020.
4. Charles Calver lodged a claim on form ET1 on the 15th June 2020. He was last paid by the respondent on the 30th April 2020.

5. Omid Pakseresht lodged a claim on form ET1 on the 16th June 2020. He was last paid by the respondent on the 31st March 2020.
6. On the 20th October 2020 Notices of all three claims were sent to the respondent ordering that a response must be received by the 17th November 2020.
7. On the 3rd November 2020, the tribunal received an email from Quantuma Advisory Limited stating that the respondent was in administration "...and did not have any funds to defend the claims..."
8. No further correspondence has been received by either party.
9. Paragraph 43(6) of Schedule B1 to the Insolvency Act 1986, provides that where a company is in administration, "...no legal process (including legal proceedings, execution, distress and diligence) may be instituted or continued against the company or property of the company except...with the consent of the administrator or...with the permission of the court." An employment tribunal is regarded as a 'court' for these purposes.
10. It follows, that proceedings against the respondent cannot commence without prior consent or leave. No such consent or leave has been obtained in any of these claims.
11. The proper approach in these circumstances as set out by the Employment Appeal Tribunal in *Carr v British International Helicopters Ltd (in administration)* 1994 ICR 18, EAT and endorsed in *Unite the Union and others v Sayers Confectioners Ltd (in administration)* EAT 0513/08, is to stay the claim while the claimant applies for the appropriate consent from the administrator and/or leave of the High Court.
12. In this case, I see no reason to depart from that usual practice. I therefore order that these three claims are stayed while the claimants obtain the necessary consent under paragraph 43(6) of Schedule B1 to the Insolvency Act 1986, from the Administrator to institute or continue legal proceedings against the respondent.

Employment Judge **Apted**
Date: **13th May 2021**

JUDGMENT SENT TO THE PARTIES ON
Date: **26th May 2021**

FOR THE TRIBUNAL OFFICE

**Case No: 2302349/2020(V)
2302367/2020(V)
2302395/2020(V)«case_no_year»**

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.