



EMPLOYMENT TRIBUNALS

Claimant: Mr R Meddicks

Respondent: AM Fabrication (Norther) Ltd (In Administration)

Before: Employment Judge Sweeney

Appearances:

For the Claimant: In person

For the Respondent: No appearance

REMEDY JUDGMENT

The judgment of the Tribunal is that:

1. The Tribunal makes a protective award in respect of the Claimant who was dismissed as redundant by the Respondent on 15 July 2021.
2. The Respondent is ordered to pay remuneration to the Claimant for the protected period. The protected period begins on 15 July 2021 and is for a period of 90 days.
3. The Claimant having recovered his notice pay from the Secretary of State, no award is made in respect of the complaint of wrongful dismissal/breach of contract.

REASONS

1. Following a judgment which was promulgated on 08 November 2021, the Claimant's claim for a protective award was set down for a remedy hearing today.
2. The Claimant gave evidence, describing the circumstances in which his employment and that of the other employees was terminated.

Findings of fact

3. The Claimant had been employed by the Respondent for just under 3 ½ years by the time of his dismissal. He had been in and out of furlough during

from March 2020. In the period from about May/June 2021 until his employment was terminated he was on furlough. There had been talk of obtaining new contracts but there had been no warning of imminent redundancies or that the company was to cease trading.

4. There was no invitation to elect representatives and there was a wholesale failure to provide any of the information under section 188 Trade Union & Labour Relations (Consolidation) Act 1992 (TULRCA), no warning and no consultation.
5. The Claimant's gross weekly pay was £480.

Conclusion

6. Without doubt, the global pandemic has resulted in serious difficulties for a great number of businesses and it may well be that it was the aftermath of the pandemic that led to the Respondent ceasing to trade. However, I am unable to say what the cause was, as there is no evidence at all. However, even in a pandemic, closure is not inevitable and certainly, if trading is difficult, the likelihood of a company ceasing to trade is itself likely to be foreseeable. Thus, it cannot be assumed that the pandemic gives rise to special circumstances which render it not reasonably practicable for the employer to comply with its obligations under section 188 TULRCA. Even if there were such circumstances, it is still necessary that the employer takes such steps towards compliance as are reasonably practicable in the special circumstances.
7. I was satisfied that the Respondent had taken no steps towards compliance with its obligations. In accordance with the decision in **Susie Radin Ltd v GMB & Others** [2004] I.C.R. 893 and there being no attempts to comply with the statutory obligations, I was satisfied that the appropriate award was one of 90 days.

Employment Judge Sweeney

7 December 2021