



EMPLOYMENT TRIBUNALS

Claimants:

Ms D Szawica

Respondents:

Oasis and Warehouse Limited
(in administration) (1)
Hilco Capital Limited (2)

v

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – rules 21 and 52

The claimant having withdrawn all her claims against the first respondent except her claim for a protective award under section 189(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 ('the Act'), and the first respondent having stated that it does not contest the claim for a protective award, and the claimant having withdrawn all her claims against the second respondent, and on the information before the judge, the judgment of the tribunal is that:

1. The claimant's claims against the second respondent are dismissed on withdrawal.
2. The claimant's complaints against the first respondent of a failure to comply with the requirements of section 188 of the Act are well-founded.
3. The tribunal orders the first respondent by way of a protective award under section 189(3) of the Act to pay to the claimant a payment equivalent to remuneration for the period of 90 days beginning on 15 April 2020.
4. The recoupment provisions apply to this award.
5. All other claims by the claimant against the first respondent are dismissed on withdrawal.

REASONS

1. The claimant was employed by the first respondent, a national British fashion retailer which went into administration on 15 April 2020. The claimant brought an employment tribunal claim which was stayed. In the ET3 and grounds of resistance presented on 27 September 2021, the

administrators of the first respondent granted consent for the claimant's claim against the first respondent for a protective award to proceed.

2. In an email dated 14 October 2021, the solicitors acting for the claimant confirmed the withdrawal of all of the claimant's claims against the second respondent and the withdrawal of all of the claimant's claims against the first respondent except for the claim for a protective award. All of the claimant's claims against the second respondent have been dismissed on withdrawal, pursuant to rule 52 of the Employment Tribunals Rules of Procedure 2013. All of the claimant's claims against the first respondent except for the claim for a protective award have been dismissed on withdrawal pursuant to rule 52.
3. That leaves only the claim for a protective award. The solicitors acting for the administrators of the first respondent confirmed in an email dated 28 October 2021 that the first respondent does not contest the claimant's claim for a protective award of 90 days.
4. On consideration of the file of proceedings, it is possible to issue judgment against the first respondent under rule 21 of the Employment Tribunals Rules of Procedure 2013 in respect of the claim for a protective award without a hearing.
5. The tribunal makes the following findings on the information provided, in respect of the claimant's claim for a protective award for breaches of the collective consultation requirements under section 188 of the Act.
6. The first respondent proposed to make 43 redundancies at its Paul Street, London, site. The first respondent did not fully inform and consult with the claimant in accordance with the provisions of section 188 of the Act 1992. There was no proper warning or consultation with the claimant and no employee representatives were elected or appointed for consultation as required under section 188A of the Act.
7. The claimant was dismissed by reason of redundancy. The dismissal took place on 15 April 2020.
8. In the circumstances, the first respondent was in breach of the duty under section 188. The tribunal makes an award under section 189 in favour of the claimant for the maximum protected period of 90 days beginning with 15 April 2020.
9. The first respondent is advised of the provisions of the Employment Protection (Recoupment of Benefits) Regulations 1996. Further information is contained in the annex to this judgment.

Employment Judge Hawksworth

Date: 17 January 2022

Sent to the parties on: 19 January 2022

For the Tribunal Office

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