



EMPLOYMENT TRIBUNALS

Claimants:

Miss L Mellor (1)
Miss E Dolan-Roberts (2)
Miss F Hickinbotham (3)
Miss K Perrin (4)
Miss L Penny (5)

v

Respondent:

Oasis Fashions Limited (in
administration)

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – rule 21

The respondent having stated that it does not contest the claim for a protective award, and on the information before the judge, the judgment of the tribunal is that:

In relation to the fifth claimant Miss Penny (case number 2203678/2020):

1. The fifth claimant's complaint against the respondent of a failure to comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 Act ('the Act') is well-founded.
2. The tribunal orders the respondent by way of a protective award under section 189(3) of the Act to pay to the fifth claimant a payment equivalent to remuneration for the period of 90 days beginning on 15 April 2020.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to this award.
4. The fifth claimant has also brought claims for arrears of pay, notice pay and for holiday pay. Notice of hearing in respect of those claims will be sent separately.

In relation to the first, second, third and fourth claimants:

5. The first, second, third, and fourth claimants' claims are duplicates of claim numbers 2203186/2020, 2203187/2020, 2203188/2020, and 2203189/2020 in which judgment for a protective award was issued on 28 January 2022 and in which other claims are to be determined at a hearing to be listed. The

tribunal has written separately to the first, second, third, and fourth claimants about whether the duplicate claims should be struck out.

REASONS

The fifth claimant

1. The claimants were employed by the respondent, a national British fashion retailer which went into administration on 15 April 2020. The claimants brought an employment tribunal claim which was stayed pending consent from the administrators of the respondent.
2. In the ET3 and grounds of resistance presented on 27 September 2021, the administrators of the respondent granted consent for the claimants' claim against the respondent for a protective award to proceed. The respondent does not contest the claimants' claim for a protective award, and does not put forward any representations to the effect that the protected period should be less than 90 days.
3. On consideration of the file of proceedings, it is possible to issue judgment against the respondent under rule 21 of the Employment Tribunals Rules of Procedure 2013 in respect of the claim for a protective award, without a hearing.
4. The tribunal makes the following findings on the information provided, in respect of the claimants' claim for a protective award for breaches of the collective consultation requirements under section 188 of the Act.
5. The respondent proposed to make 91 redundancies at its Paul Street London site. The respondent did not fully inform and consult with the claimants in accordance with the provisions of section 188 of the Act 1992. There was no proper warning or consultation with the claimants and no employee representatives were elected or appointed for consultation as required under section 188A of the Act. In the circumstances, the respondent was in breach of the duty under section 188.
6. The first of the dismissals to which the claim relates took place on 15 April 2020. The claimants were dismissed by reason of redundancy on 15 April 2020. The claimants' claims were presented in time on 21 June 2020 after Acas early conciliation from 21 to 26 May 2020.
7. The tribunal makes an award under section 189 in favour of the fifth claimant for the maximum protected period of 90 days beginning with 15 April 2020.
8. The fifth claimant has brought claims of unfair dismissal, for notice pay and for holiday pay. Notice of hearing in respect of those claims will be sent separately.

9. The Respondent is advised of the provisions of Regulation 6 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 ('the Regulations').
10. Within 10 days of this decision being promulgated or as soon as is reasonably practicable, the respondent must comply with the provisions of Regulation 6 of the Regulations and, in particular, must supply to the Secretary of State the following information in writing: a) the name, address and national insurance number of every employee to whom the award relates; and b) the date of termination of the employment of each such employee.
11. The respondent will not be required to make any payment under the protective awards made until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the respondent.
12. More information is contained in the annex to this judgment.

The first, second, third and fourth claimants

13. The first, second, third, and fourth claimants' claims are duplicates of claim numbers 2203186/2020, 2203187/2020, 2203188/2020, and 2203189/2020 in which judgment for a protective award was issued on 28 January 2022 and in which other claims are to be determined at a hearing to be listed. The tribunal has written separately to the first, second, third, and fourth claimants about whether the duplicate claims should be struck out.

Employment Judge Hawksworth

Date: 28 January 2022

Sent to the parties on: 3 February 2022

For the Tribunal Office

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