



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

and

Respondent

Ms G Jones

STA Travel Limited (in voluntary
liquidation) (1)
Secretary of State for Business, Enterprise,
and Industrial Strategy (2)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Employment Tribunals Rules of Procedure 2013—Rule 21

No response has been received from STA Travel Ltd which is in voluntary liquidation. The Secretary of State for BEIS has presented a Response stating that it neither resists nor supports the claim.

On the information before the judge the Judgment of the Tribunal is that:

1. The Claimant worked at head office which is an establishment which employed more than 20 employees.
2. The First Respondent failed to consult with the Claimant as required by section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the Act”).
3. The Tribunal makes a protective award of 90 days pay to the Claimant under section 189(3) of the Act.
4. The Tribunal orders the First Respondent to pay the Claimant her remuneration for the protected period of 90 days beginning on 2 September 2020.
5. The Recoupment of Jobseekers Allowance and Income Support Regulations 1996 may apply to this award.
6. The hearing on 3 March 2022 is cancelled.

REASONS

1. The Claimant was employed by STA Travel Ltd at its head office in Wrights Lane.
2. Her claim was presented in September 2020 but rejected. Her application dated 12 October 2020 for a reconsideration of that rejection was overlooked by the Employment Tribunal. Her claim was subsequently accepted on 23rd November 2021 and served It was treated as having been received on 12 October 2020, the date of her application for reconsideration.
3. By a judgment promulgated on 23 November 2021 a protective award was made in respect of a number of the Claimant's colleagues whose claims were presented in time and who worked at head office in Wrights Lane, which is where the Claimant worked. Those employees had not been consulted as required and worked at an establishment with more than 20 employees. The Claimant was not included in that judgment as her claim had not been accepted or served on the Respondents at the time of the hearing.
4. On consideration of the file it is possible to issue judgment against the Respondent under rule 21 of the Employment Tribunal Rules of Procedure 2013 in respect of Ms Jones claim for a protective award without a hearing.
5. The Respondents are advised of the provisions of Regulation 5 of the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996 (the Regulations).
6. The First 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.
7. More information is contained in the annex to this judgment.

Employment Judge F Spencer
Date: 9th Feb 2022

Judgment sent to the parties on: 10th Feb 2022.

_____ for the Tribunals Office

ANNEX

Claimant: Ms G Jones

Respondents: STA Travel Limited (1)
The Secretary of State for BEIS (2)

**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The first and second respondents are under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (a) the amount (less any tax or social security contributions which fall to be deducted by the employer) accrued due to the employee in respect of so

much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR

(b) (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or

(ii) in the case of an employee entitled to an award of universal credit for any period ("the UC period") which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or on account of universal credit for the UC period that would not have been paid if the person's earned income for that period was the same as immediately before the period to which the prescribed element is attributable.

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the relevant respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondents will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.