



EMPLOYMENT TRIBUNALS

Claimants:

Mrs L Hardie

v

Respondent:

Oasis Fashions Limited
(in administration)

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – rule 21 and rule 70

The judgment of 28 January 2022 is varied under rule 70. The correct respondent is Oasis Fashions Limited (in administration). Other than correction of the name of the respondent and correction of the workplace of the claimant in the reasons, the judgment is confirmed.

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:

1. The 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 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.

REASONS

1. Reconsideration: Judgment for the claimant was issued on 28 January 2022 against Oasis and Warehouse Limited (in administration). The judgment was sent to the parties on 31 January 2022. The solicitors for the joint administrators of Oasis and Warehouse Limited and Oasis Fashions Limited wrote to the tribunal on 10 February 2022 and 17 March 2022 to ask for the judgment to be reconsidered as it had come to their attention that the claimant was employed by Oasis Fashions Limited and not by Oasis and Warehouse

Limited and that her workplace was Paul Street. There were 91 redundancies made by Oasis Fashions Limited at Paul Street.

2. On 21 March 2022 the claimant wrote to the tribunal to confirm that she agrees that her employer was Oasis Fashions Limited.
3. It is not necessary to have a hearing to decide the respondent's application for reconsideration as both parties have been given a reasonable opportunity to make written representations, and both agree that the respondent named on the judgment of 28 January 2022 was not the claimant's employer. The judgment can be reconsidered under rule 72(2) without a hearing.
4. It is in the interests of justice for the judgment of 28 January 2022 to be varied under rule 70 by correction of the name of the respondent to 'Oasis Fashions Limited (in administration)' and correction of the claimant's workplace in the reasons. Variation of the judgment is required so that the judgment is against the correct respondent, that is the company agreed by both parties to have been the claimant's employer, and so that the claimant's workplace is correctly recorded.
5. Other than variation of the respondent's name and the claimant's workplace, no correction is required and the judgment is confirmed.
6. Judgment on the protective award: The claimant was employed by the respondent, a national British fashion retailer which went into administration on 15 April 2020. The claimant brought an employment tribunal claim which was stayed pending consent from the administrators of the respondent.
7. In the ET3 and grounds of resistance presented on 27 September 2021, the administrators of the respondent granted consent for the claimant's claim against the respondent for a protective award to proceed. The respondent does not contest the claimant's 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.
8. 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.
9. 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.
10. The respondent proposed to make 91 redundancies at its Paul Street site. The 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. In the circumstances, the respondent was in breach of the duty under section 188.

11. The first of the dismissals to which the claim relates took place on 15 April 2020. The claimant was dismissed by reason of redundancy. The dismissal took place on 30 April 2020. The claimant's claim was presented in time on 9 May 2020 after Acas early conciliation from 4 May 2020 to 4 May 2020.
12. 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.
13. 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').
14. 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.
15. 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.
16. More information is contained in the annex to this judgment.

Employment Judge Hawksworth

Date: 24 March 2022

Sent to the parties on: 24 March 2022

For the Tribunal Office

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