



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr G Ward and 30 others  
**Respondent:** H.Beardsley Limited (in administration) (1)  
The Secretary of State for Business Energy and Industrial Strategy (2)  
**Heard at:** Considered on the papers  
**On:** 13 June 2022  
**Before:** Employment Judge Adkinson sitting alone

## JUDGMENT

### **RULE 21 OF THE EMPLOYMENT TRIBUNAL'S RULES OF PROCEDURE**

After considering the claimant's claim presented to the Tribunal in the Midlands (East) region on 14 March 2022;

After considering the Tribunal's file and the documents on it;

After noting that the first respondent has failed to present a response;

After considering the second respondent's response;

After noting that the administrators on 5 April 2022 consented to the claim continuing despite the respondent's administration;

After considering the claimant's email of 9 June 2022 and treating that as a schedule of loss;

After considering the Tribunal has sufficient information to determine the claim;

After considering the **Trade Union and Labour Relations (Consolidation) Act 1992 ("TULCRA") sections 188 and 189;**

After considering **Susie Radin v GMB [1994] ICR 893 CA** (which indicates that where there has been no consultation, one starts from the position that a protective award should be for 90 days, reduced only to reflect any mitigating circumstances);

After noting that no mitigating circumstances are advanced by the respondent for any failure to consult in accordance with the law;

And after finding the facts of the case are as follows: the claimant and 20 or more other employees all worked at a single establishment at Unit 2 Common road, Huthwaite, Sutton-in-Ashfield, Nottinghamshire NG17 2JN; that the claimant and those employees were dismissed summarily on 31 January 2022 because of redundancy;

that before their dismissal the respondent did not consult with the claimant or any of the other employees there or any relevant trade union; and that the respondent failed to organise the election of employee representatives and to consult with them in accordance with **TULCRA**; and that there are no circumstances that mitigate the failure to consult;

After considering that a hearing would be disproportionate given the circumstances of the case outlined above and that the matter can be dealt with adequately without a hearing.

IT IS THE TRIBUNAL'S JUDGMENT THAT

1. The claimant's complaints under **TULCRA section 189** of a failure by the first respondent to comply with the requirements of **TULCRA section 188** are well-founded;
2. The first respondent must pay to the those who were the respondent's employees on 31 January 2022 at Unit 2 Common road, Huthwaite, Sutton-in-Ashfield, Nottinghamshire NG17 2JN and who were dismissed that day for redundancy a protective award equivalent to remuneration for the period of 90 days beginning on 31 January 2022;
3. All future hearings are cancelled.

**Obligation on the respondent to notify the Secretary of State**

NB The respondent is reminded of its obligation under **Employment Protection (Recoupment of Benefits) Regulations 1996/2349 regulation 6** which says

"(1) Where an employment tribunal makes a protective award under section 189 of the 1992 Act against an employer, the employer shall give 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 (or proposed termination) of the employment of each such employee.

"(2) Subject to paragraph (3) below the employer shall comply with paragraph (1) above within the period of ten days commencing on the day on which the employment tribunal at the hearing announces to the parties the effect of a decision to make a protective award or (in the case where no such announcement is made) on the day on which the relevant decision is sent to the parties.

"(3) Where, in any case, it is not reasonably practicable for the employer to comply with paragraph (1) above within the period applicable under paragraph (2) above he shall comply as soon as reasonably practicable after the expiration of that period."

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Employment Judge Adkinson

Date: 12 April 2022

JUDGMENT SENT TO THE PARTIES ON

8 July 2022

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FOR THE TRIBUNAL OFFICE

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