



EMPLOYMENT TRIBUNALS

Claimant: Mr J Irons & 6 Others
(see schedule)

Respondent: Blue Group UK Retail Limited T/A Harveys Furniture (In
Administration)

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The respondent not having presented a response to the claims, and on the information before the Judge, the Judgment of the Tribunal is that:

1. The respondent failed to consult with the claimants in breach of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992.
2. Under Section 189(1)(d), (2), (3) and (4) of the Trade Union and Labour Relations (Consolidation) Act 1992, the Tribunal makes a protective award in respect of the claimants listed in the attached schedule, and the respondent is ordered to pay remuneration to them for a protected period of 90 days beginning on 18 August 2020.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to this award.

REASONS

4. The claimants listed in the attached schedule were employed by the first respondent.
5. The claimants were dismissed by the respondent by reason of redundancy, on 18 August 2020.

6. The respondent employed more than 20 employees nearly all of whom were made redundant on, or around, the same date.
7. There was no proper warning or notice given to or consultation with the workforce. The dismissals were put into effect without any consultation or advance notice.
8. The respondent did not adequately comply with a requirement of section 188 of the Trade Union & Labour Relations (Consolidation) Act 1992.
9. The claimants raised a complaint pursuant to section 189 of the Trade Union & Labour Relations (Consolidation) Act 1992 seeking a protective award in respect of that failure.
10. No response was presented to the claims by the respondent.
11. On 30 June 2020, Zelf Hussain, Peter Dickens and Julia Marshall of PWC were appointed Joint Administrators of the respondent.
12. The Administrators have consented to the claims proceeding and to all claimants being included as part of this Judgment.
13. In the circumstances, the Tribunal makes a protective award in favour of the claimants listed in the attached Schedule.

NOTE

14. A protective award is a two-stage process. The Tribunal at this stage makes no financial awards, but gives a judgment that the claimants are entitled to a protective award in the terms set out above. The claimants must then seek payment of their individual award from the respondent (or the Secretary of State), quantifying the same.
 15. Failure to pay (should that occur), or any dispute as to the amount payable, then becomes a matter for a further separate claim under s.192 of the Trade Union and Labour Relations (Consolidation) Act 1992 for payment of the award.
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**Case No: 2418404/2020
& 6 others (see schedule)**

Employment Judge **Malik**
Date 12 June 2022

JUDGMENT SENT TO THE PARTIES ON
7 July 2022

FOR THE TRIBUNAL OFFICE

SCHEDULE OF CLAIMANTS

**2418404/2020 – Mr J Irons -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418405/52020 – Mr S Jassel -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418406/2020 – Mr R Barnett -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418407/2020 – Mr S Parnell -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418408/2020 – Mr S Needs -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418409/2020 – Mr L Mayne -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418410/2020 – Mr J Irons -v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

**2418411/2020 – Mr J Taylor-v- Blue Group UK Retail Limited T/A Harveys
Furniture (In Administration)**

Claimant: Mr J Irons & Others

**Respondent: Blue Group UK Retail Limited T/A Harveys Furniture
(in Administration)**

**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 respondent is 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

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& 6 others (see schedule)**

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 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 respondent 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.