



EMPLOYMENT TRIBUNALS

Claimant: Mr J Maughan & others (see attached schedule)

Respondents: (1) Wildgoose Construction Ltd (in administration)

(2) The Secretary of State for Business, Energy and Industrial Strategy

Heard: On the papers

On: 30 June 2022

Before: Employment Judge Ayre, sitting alone

JUDGMENT

1. The First Respondent has failed to consult with employee representatives contrary to sections 188 and 188A of the Trade Union & Labour Relations (Consolidation) Act 1992.
2. The First Respondent is ordered to pay remuneration to each of the claimants in the attached schedule for a protected period of 90 days beginning on 3 November 2021.

REASONS

1. The Claimants were all employed by the First Respondent. On 2nd November 2021 the First Respondent went into administration. The administrator of the First Respondent has given consent for these claims to proceed, in a letter dated 18 February 2022.
2. On 21st December 2021 claims for protective awards were issued in the Employment Tribunal following a period of Early Conciliation that started on 15 December 2021 and ended on 21 December 2021.
3. The First and Second Respondents both filed responses to the claims indicating they intended to defend the claims. Both indicated that they did not intend to submit any evidence or make submissions at a hearing.

4. The case was originally listed for a hearing on paper before me on 16 June 2022. On reviewing the papers, I was not satisfied that I had all of the information necessary to make a decision, and further information was requested of the parties. The Claimants' solicitor has provided that additional information, for which I am grateful.
5. I also sought the consent of all parties to the claim being listed before an Employment Judge sitting alone, in accordance with section 4(3)(e) of the Employment Tribunals Act 1996. All parties have now provided their consent to the claims being heard by an Employment Judge sitting alone.
6. I therefore considered the claims on the papers at a hearing on 30 June 2022. On the information before me including submissions on behalf of the Claimants, a witness statement from the lead claimant, James Maughan and the submissions made by the respondents in their Responses, I make the following findings.
7. The Claimants worked at a single establishment at which there was no recognised trade union.
8. The first Respondent failed to organise the election of employee representatives and to consult with them in accordance with sections 188 and 188A of Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA").
9. Accordingly, the Claimants' complaints pursuant to TULRCA section 189 are well founded and succeed.
10. The first Respondent is ordered to pay remuneration to each of the Claimants in the attached schedule for a protected period of 90 days beginning on 3 November 2021.
11. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply to these awards.

Date: 30 June 2022

JUDGMENT SENT TO THE PARTIES ON

23 July 2022

Case No:2603271/2021 & others

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

Schedule
Claimants in respect of whom a protective award is made

James Maughan
Gavin Mee
Elizabeth Kennan
Josh Mee
Steven Briggs
Reuben Spears
Wayne Clarke
Rebecca Williams
Luke Sisson
Adam Schubert
Tracey Daniel
Sam Bilton
Jack Keys
Paul Norbury
Steven Hodgson
Sam Gilthorpe
David Leiw
Charlotte Key
Victoria Williams
Nathan Bilton
Raymond Folehar
Geoff Hopkinson
Michael Scott
Anthony Wright
Robert Blurton
Simon Waters
Jacqueline Elson
Dale Peers
Simon Meredith
Lyndon Bowler
Clive Vaughan
Mark Sabin
Andrew Turner
Leon Dowling
James Cruse
Paul Winson
Warren Spafford
William Turner
Amie Reid
Charlie Nadin
Thomas Evans
Richard Williams
Steven Queen
John Slade
Julia Wombwell

Paul Metcalfe-Smi9th
Leslie Jarvis
Ann Jenkinson
Philip Turner
Lorraine Price
Kenzie Townsend
Leigh Gibson
Rob Osborne
Kerry Yates