



EMPLOYMENT TRIBUNALS

Claimant

Lyndsey Emma Darwood

v

Respondents

Utility Point Ltd (in administration) (1)

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

Heard at: Bristol (virtual hearing)

On: 01 July 2022

Before: Employment Judge Housego

Appearances

For the Claimant: In person

For the Respondents: Administrators sent written representations (1)

Secretary of State sent written representations (2)

JUDGMENT

1. The name of the 1st Respondent is amended, as above.
2. The 1st Respondent is ordered to pay to the Claimant the sum of £5,384.62 in respect of failing to consult over redundancy, namely a Protective Award under S182 of the Employment Rights Act 1996.
3. **The start date for the protective award is 24 September 2021.**
4. The 1st Respondent made deductions from the wages of the Claimant and is ordered to pay to her the sum of £3,330.99 in respect of those deductions.

REASONS

1. On 24 September 2021 the Claimant attended a virtual meeting with the 1st Respondent's administrators. The screen was black, and a voice read a script. This informed the Claimant that she was dismissed by reason of redundancy with immediate effect.
2. The Claimant was paid monthly, and received her pay for August 2021, but nothing for September.



3. The Claimant made application to the 2nd Respondent for her pay for September 2021. The 2nd Respondent paid £1,515.16 in respect of those unpaid wages, under S184 Employment Rights Act 1996.
4. The Claimant claims against the 1st Respondent the unpaid salary for the period 1-24 September 2021, and 30 days' pay because there was no consultation over her dismissal, as one of a number of employees dismissed, between 25 and 100.
5. This is a claim against the 1st Respondent under S182 of the Employment Rights Act 1996, for a Protective Award.
6. The 1st Respondent (the administrators) wrote to the Tribunal on 17 January 2022. They said that:
 - 6.1. they consented to the claim against the 1st Respondent continuing;
 - 6.2. they were appointed on 22 September 2021;
 - 6.3. on 23 September 2021 all employees were told of their appointment;
 - 6.4. on 24 September 2021 at 9am by video meeting 73 employees, including the Claimant were dismissed by reason of redundancy;
 - 6.5. no outstanding wages would be paid; and
 - 6.6. no consultation process was undertaken.
7. The 2nd Respondent wrote a detailed explanation in its ET3. They said:
 - 7.1. that they had paid the Claimant £1,515.16 net pay;
 - 7.2. they could not pay the Claimant in respect of a Protective Award unless the Tribunal made a judgment confirming that such an award had been made against the employer.
8. The 1st Respondent accepts that there was no payment of wages for the period 1-24 September 2021. After giving credit for the money received from the 2nd Respondent, the balance due from the 1st Respondent is £3,330.99.
9. The 1st Respondent accepts that there was no consultation over redundancy dismissals, and that on **24 September 2021** all 73 employees were made redundant at the same time, including the Claimant. Accordingly, the Respondent is ordered to pay to the Claimant a Protective Award of 30 days' pay.
10. There is no formal claim against the 2nd Respondent for the Protective Award. However, as the 2nd Respondent stated in its Grounds of Resistance, S184(2)(d) of the Employment Rights Act 1996 obliges the Secretary of State to treat as arrears of pay any Protective Award made against the former employer.



11. This judgment is the judgment required under S185(b) of the Employment Rights Act 1996 for the 2nd Respondent to pay the Protective Award to the Claimant.
12. The Protective Award is £5,384.62.

Employment Judge

Dated: 01 July 2022

Amended Judgment Sent to the parties on
09 September 2022 By Mr J McCormick

For the Tribunal Office