



# EMPLOYMENT TRIBUNALS

**Claimant**

**Mr G Boylan**

**Heard at:** Cambridge (by CVP)

**Before:** Regional Employment Judge Foxwell

**Appearances:**

**For the Claimant:** In person  
**For the Respondent:** Not served

**Respondent**

**Allvotec Limited**

**On:** 21 October 2022

## RECONSIDERATION JUDGMENT

1. The decision to reject the claimant's claim because the Employment Tribunal in England & Wales lacks jurisdiction to hear these claims is confirmed.

### REASONS

1. On 29 June 2022 the claimant, Mr Gerald Boylan, presented complaints to the Employment Tribunal against his former employer Allvotec Limited for a protective award for its alleged failure to consult adequately in respect of a collective redundancy and for holiday pay. Prior to starting his claim he had gone through early conciliation between 18 May 2022 and 29 June 2022.
2. The claim was referred to me and I directed that it should be rejected because the Tribunal lacked jurisdiction to hear it. My reason for reaching that decision is that the claimant lives in Northern Ireland and his former workplace was there. This decision was sent to the claimant in a letter dated 1 August 2022.
3. A consequence of the rejection is that proceedings were not served on Allvotec Limited and it has played no part in them. For the sake of simplicity, however, I shall refer to it as 'the respondent' in these Reasons.
4. The claimant requested a review of my decision by email dated 1 August 2022. I treated this as an application for reconsideration under rule 13 of the Employment Tribunal's Rules of Procedure 2013. I directed that the application be dealt with at a hearing and this was listed for today.

5. It appears that the claimant did not received notice of the hearing until yesterday evening. Fortunately, he was able to join the hearing, which was by video, this morning. I explained to him why I thought it was beneficial to proceed with the hearing despite the short notice and he accepted this.
6. I am satisfied that the Tribunal does not have jurisdiction to hear this claim and confirmed the original decision to reject it. In doing so I had regard to the fact that the respondent has its registered office in England (in Northamptonshire). In *Odeco (UK) Inc v Peacham [1979] ICR 823* the Employment Appeal Tribunal held that this was sufficient to meet the requirement in the predecessor to Rule 8(2)(a) of the Tribunal's Rules of Procedure, namely that it has jurisdiction where the respondent resides or carries on business in England and Wales.
7. If matters had stopped there this would have provided a sufficient basis for the Tribunal to accept this claim but its powers derive from statute and statutory instruments. Here the statutory provisions relevant to the holiday pay claim are The Working Time Regulations 1998 and/or Part II of the Employment Rights Act 1996. The claim for a protective award arises under sections 188 to 192 of the Trade Union and Labour Relations (Consolidation) Act 1992.
8. Regulation 1(2) of The Working Time Regulations says that they do not extend to Northern Ireland. Similarly, section 244(1) of the Employment Rights Act says that it does not extend to Northern Ireland. Parts of the Trade Union And Labour Relations (Consolidation) Act do apply in Northern Ireland but not sections 188 to 192, the relevant ones here (see section 301). Accordingly, the statutes which vest the Employment Tribunal in England & Wales with power to hear these claims do not extend to the part of the United Kingdom where the claimant lives and worked.

**GEORGE FOXWELL**

Regional Employment Judge

Date: ...21 October 2022....

Judgment sent to the parties on

29 November 2022

GDJ

For the Tribunal office