



EMPLOYMENT TRIBUNALS

Claimant: Ms J Urban

Respondents: (1) Byron Hamburgers Ltd (in Administration)
(2) Secretary of State for Business, Energy and Industrial Strategy

Heard at: London South (CVP)

On: 12 October 2022

Before: Employment Judge A.M.S. Green

Representation:

Claimant: Not present or represented

Respondent: Not present or represented

JUDGMENT

1. The application for a protective award pursuant to section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") is well not founded and is dismissed.

REASONS

1. The claimant was not present or represented at the hearing. I asked the clerk to contact to ascertain her whereabouts. He tried telephoning her number but it was disconnected. He sent an email reminding her about the hearing. The claimant did not reply. I decided to conduct the hearing on absence and have based my decision relating to the claim for a protective award on the information contained in the file.
2. The claimant was employed by the first respondent, a chain of fast food restaurants, as a supervisor, from 20 October 2014 until 31 July 2020. Early conciliation started on 6 August 2020 and ended on 6 August 2020. The claim form was presented on 13 August 2022. The claimant is one of many former employees of the first respondent who were made redundant with effect on 31 July 2020.
3. The first respondent is in administration. The second respondent has been joined as a party given its role in administering payments out of the National Insurance Fund. It has provided grounds of resistance and

indicated that it did not wish to participate in the hearing. I have considered the grounds of resistance.

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4. The claim is about:

- a. Redundancy
- b. Notice pay
- c. Holiday pay
- d. Other payments – a protective award because the first respondent did not inform and consult their workforce about proposed redundancies

5. The respondent claims to have paid the claimant's statutory redundancy payment, her notice pay and her holiday pay. I am unable to determine this aspect of her claim, until I have received confirmation on whether payments were made as claimed by the respondent. I have issued a case management order to that effect. I can, however, issue my determination on the claimant's claim for payment of a protective award on the information that has been provided to the Tribunal.

6. An employer's duty to consult only arises where it is proposing to dismiss 20 or more employees at one establishment within a period of 90 days. In her claim form, the claimant states that she was employed to work at the first respondent's premises at 26 Hill Street, London, TW9 1TW. In a related case, which I heard involving another employee who worked at the same restaurant and who was dismissed on the same day as the claimant, I was told that no more than 15 people worked that restaurant. Each restaurant in the first respondent's group of restaurants constitute a separate establishment.

Consequently, in the case of the claimant, given that fewer than 20 people were made redundant at the place where she worked, the statutory duty to consult under the Trade Union and Labour Relations (Consolidation) Act 1992, section 188 was not engaged.

Employment Judge Green
Date: 12 October 2022

Sent to the parties on
Date: 28 October 2022

Michael Chandler
For the Tribunal Office

