



## 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 1<sup>st</sup> Respondent is amended, as above.
2. The 1<sup>st</sup> 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. The protected period for S185(b) is 45 days.**
4. The 1<sup>st</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> Respondent for her pay for September 2021. The 2<sup>nd</sup> Respondent paid £1,515.16 in respect of those unpaid wages, under S184 Employment Rights Act 1996.
4. The Claimant claims against the 1<sup>st</sup> 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 90 in number) all employed at the same place and dismissed at the same time.
5. This is a claim against the 1<sup>st</sup> Respondent under S182 of the Employment Rights Act 1996, for a Protective Award.
6. The 1<sup>st</sup> Respondent (the administrators) wrote to the Tribunal on 17 January 2022. They said that:
  - 6.1. they consented to the claim against the 1<sup>st</sup> 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 2<sup>nd</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> Respondent, the balance due from the 1<sup>st</sup> Respondent is £3,330.99.
9. The 1<sup>st</sup> Respondent accepts that there was no consultation over redundancy dismissals, and that on 24 September 2021 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 2<sup>nd</sup> Respondent for the Protective Award. However, as the 2<sup>nd</sup> 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 2<sup>nd</sup> Respondent to pay the Protective Award to the Claimant.
12. The Protective Award is £5,384.62, being the amount of pay due to the Claimant for the protected period, proved by production of her payslips.

**Employment Judge Housego**

Date: 01 July 2022

Amended 25 November 2022

Sent to the parties: 15 December 2022

For the Tribunal Office