

Case No: 2601903/2022 & Others



EMPLOYMENT TRIBUNALS

Claimants: Mr Makhan Toor & 19 others (see attached schedule)

Respondent: (1) Oaktarget Garments Ltd (in administration)
(2) The Secretary of State for Business, Energy and Industrial Strategy

Heard at: Nottingham (via CVP)

On: 9 February 2023

Before: Employment Judge Millns (sitting alone)

Representation:

Claimants: Mr J Buchannan, solicitor

Respondents: Not appearing

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The first Respondent failed to submit a Response to the claims and the administrator has given consent for them to proceed.

Upon hearing evidence from Mr M Toor and on the information before me including submissions of behalf of the Claimants and the written submissions made by the second Respondent

The decision of the Employment Judge is:

1. The Claimants worked at a single establishment at which there was no recognised trade union.
2. 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").
3. Accordingly, the Claimants' complaints pursuant to TULRCA section 189 are well founded and succeed.
4. 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 4 May 2022.
5. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

Employment Judge Millns

Date: 9 February 2023

Notes

1. A protective award is a two-stage process. The tribunal at this stage makes no financial award, but give a judgment that the claimants are entitled to a protective award in the terms set out above. The claimants must then seek payment of their individual awards from the respondent, quantifying the amount.

2. Failure to pay (should that occur), or any dispute as to the amount payable, then becomes a matter for a further separate claim under s192 of the Trade Union and Labour Relations (Consolidation) Act 1992 for payment of the award.
3. Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided, they will be displayed on the tribunal's online register of judgments, which is visible to internet searches.

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Schedule of claimants entitled to a protective award for a 90-day period and who are within the scope of this judgment.

Makhan Toor
Kiran Toor
Jarnail Kaur
Vinodchandra Joshi
Dilbagh Singh

Baljinder Kaur
Bakhsho Kaur
Jayshriben Mistry
Manjit Kaur
Ketankumar Shah
Yatinkumar Shah
Daljit Kaur
Rewal Kaur
Gurdev Kaur
Amarjit Kaur
Kulvinder Kulvinder
Jozef Cupai
Chandu Ramgi
Bharat Prajapati
Mahaveer Toor