



# EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 4100147/2023 and others (per attached schedule)

Employment Judge M Whitcombe

Mr M Strachan and others (see attached schedule)

Claimants

Thevegankind Ltd (In Administration)

Respondent

## JUDGMENT

The Employment Judge has decided to issue the following judgment on the available material under rule 21 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013.

The respondent failed to comply with the requirements of regulations 13 and 14 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 and is ordered to pay compensation of thirteen weeks' pay to each of the claimants. Although it is no longer a separate respondent, Lillie SPV Limited is jointly and severally liable for that award as transferee.

# REASONS

1. The respondent did not present a response to these claims within the applicable time limit.
2. The respondent is in administration, but the administrator consented to the continuation of these proceedings in an email dated 2 February 2023.

## **Background**

3. The claimants were all formerly employed by the respondent at Herschel House, 8 Ashton Rd, Rutherglen, Glasgow, G73 1UB. On 12 October 2022, all of the respondent's employees including the claimants were informed by letter that their employment had been transferred under the Transfer of Undertakings (Protection of Employment) Regulations 2006 to Lillie SPV Limited.
4. The claimants were therefore "affected employees" for the purposes of those regulations. There was neither a recognised trade union nor any other appropriate representative of affected employees.
5. Lillie SPV Limited was formerly the second respondent in this claim but the claim that the transferee was in breach of *its own* obligations to the claimants under the regulations was withdrawn on 22 February 2023. Lillie SPV Limited then applied to be dismissed from the proceedings and on 3 March 2023 a Legal Officer issued a judgment to that effect under rule 52.

## **Failure to elect representatives and to inform and consult**

6. Given the absence of any other appropriate representatives, the respondent was under an obligation pursuant to regulations 13(3)(b)(ii) and 14 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 to facilitate the election of employee representatives to whom they could provide

information about the transfer and with whom they could consult about the transfer.

7. The respondent failed to facilitate such an election and consequently to inform and consult any such representatives about the transfer. Prior to the date of the transfer, the respondent failed to inform appropriate representatives of the claimants of:

- (a) the fact that the transfer was to take place, the date or proposed date of the transfer and the reasons for it;

- (b) the legal, economic and social implications of the transfer for any affected employees;

- (c) the measures which the respondent envisaged it would, in connection with the transfer, take in relation to any affected employees; and

- (d) the measures, in connection with the transfer, which the respondent envisaged the transferee would take in relation to any affected employees who would become employees of the transferee after the transfer by virtue of regulation 4 or, if it envisaged that no measures would be so taken, that fact.

### **Special circumstances**

8. There were no special circumstances which would render the provision of the above information or subsequent consultation not reasonably practicable. The respondents took no reasonable steps at all towards compliance with the requirement to inform and consult.

### **Declaration**

9. The complaint that the respondent failed to comply with the requirements of regulations 13 and 14 is well founded and accordingly a declaration and award

are made under regulation 15(8) of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

### **Compensation**

10. There was a complete failure to comply with the respondent's obligations and therefore "appropriate compensation" for the purposes of regulation 15(8)(a) is 13 weeks' pay for each affected employee. It must be paid to each of the affected employees who have brought a claim under regulation 15(1)(a), in other words, the claimants listed in the attached schedule.

### **Joint and several liability**

11. The transferee, Lillie SPV Ltd, is jointly and severally liable for that award by virtue of regulation 15(9) of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

<b>Employment Judge:</b>	<b>M Whitcombe</b>
<b>Date of Judgment:</b>	<b>04 April 2023</b>
<b>Entered in register:</b>	<b>05 April 2023</b>
<b>and copied to parties</b>	

## Multiple Schedule

Multiple:

4100352 - THEVEGANKIND LTD

Case Number	Case Name
4100147/2023	Mr Marc Strachan -v- THEVEGANKIND LTD (In Administration) & Others
4100148/2023	Ms hannah stark -v- THEVEGANKIND LTD & Others
4100149/2023	Mr andrew hunter -v- THEVEGANKIND LTD & Others
4100150/2023	Mr andrew lamb -v- THEVEGANKIND LTD & Others
4100151/2023	Mr bryn davies -v- THEVEGANKIND LTD & Others
4100152/2023	Mr cameron hussain -v- THEVEGANKIND LTD & Others
4100153/2023	Ms carla baldwin -v- THEVEGANKIND LTD & Others
4100154/2023	Mr connor marenghi -v- THEVEGANKIND LTD & Others
4100155/2023	Ms emma gangel barclay -v- THEVEGANKIND LTD & Others
4100156/2023	Mr fernando jose pla -v- THEVEGANKIND LTD & Others
4100157/2023	Mr juan carlos pla giraldo -v- THEVEGANKIND LTD & Others
4100158/2023	Ms laura weeks -v- THEVEGANKIND LTD & Others
4100159/2023	Mr marc strachan -v- THEVEGANKIND LTD & Others
4100160/2023	Ms morgan mcbain -v- THEVEGANKIND LTD & Others
4100161/2023	Ms rachel duff -v- THEVEGANKIND LTD & Others
4100162/2023	Ms rhona maxwell -v- THEVEGANKIND LTD & Others
4100163/2023	Ms sinead wall -v- THEVEGANKIND LTD & Others
4100164/2023	Ms veronika panchartkova -v- THEVEGANKIND LTD & Others
4100165/2023	Mr scott mcluckie -v- THEVEGANKIND LTD & Others
4100166/2023	Ms georgia wheatley -v- THEVEGANKIND LTD & Others
4100167/2023	Ms jenna mcguinness -v- THEVEGANKIND LTD & Others
4100168/2023	Ms kate desceras -v- THEVEGANKIND LTD & Others
4100169/2023	Ms lauren hay -v- THEVEGANKIND LTD & Others
4100170/2023	Ms claire mccarlie -v- THEVEGANKIND LTD & Others
4100171/2023	Ms katie mcleod -v- THEVEGANKIND LTD & Others
4100172/2023	Ms emma pender -v- THEVEGANKIND LTD & Others
4100173/2023	Ms simone sherrie -v- THEVEGANKIND LTD & Others
4100174/2023	Mr james willis -v- THEVEGANKIND LTD & Others
4100175/2023	Ms emily bennett -v- THEVEGANKIND LTD & Others
4100176/2023	Ms jane carson -v- THEVEGANKIND LTD & Others
4100177/2023	Mr jordan robertson -v- THEVEGANKIND LTD & Others
4100178/2023	Ms gabriella rodriguez -v- THEVEGANKIND LTD & Others
4100179/2023	Mr leo mcgonigle -v- THEVEGANKIND LTD & Others
4100180/2023	Mr richard james burns -v- THEVEGANKIND LTD & Others
4100181/2023	Ms caroline timmins -v- THEVEGANKIND LTD & Others
4100182/2023	Mr alan appleby -v- THEVEGANKIND LTD & Others