



EMPLOYMENT TRIBUNALS

Claimant: Miss S Garvey and others
(see Schedule)

Respondent: 1. T.W. Parker (Paper) Limited (in administration)
2. Secretary of State for Business, Energy & Industrial Strategy

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The complaints seeking a protective award under section 189 Trade Union and Labour Relations (Consolidation) Act 1992 are well founded. The first respondent failed in its duty to consult the claimants under section 188 of that Act.
2. The first respondent is ordered to pay to each claimant identified in the schedule to this judgment remuneration for the protected period of ninety days starting on 11 April 2022, being the date the first of the dismissals took effect.
3. The recoupment regulations apply.

Regional Employment Judge Franey

6 June 2023

JUDGMENT SENT TO THE PARTIES ON

6 June 2023

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

Schedule

Case Number	Case Name
2403615/2022	Miss Shannon Garvey
2403946/2022	Ms Rachel Whiteside
2405743/2022	Mr Gary Kerwin
2405744/2022	Mr Jordi Abadias-Garcia
2405745/2022	Mr Carl Blackhurst
2405746/2022	Mr Robert Carey
2405747/2022	Mr Josh Cartledge
2405748/2022	Ms Lina Derrington
2405749/2022	Mr David Dobbs
2405750/2022	Mr Andrew Drillingcourt
2405751/2022	Mr John Evans
2405752/2022	Mr Liam Gaffney
2405753/2022	Mr Gbomo Nathaniel Igbinedion
2405754/2022	Ms Ganganpreet Kaur
2405756/2022	Mr Michael Mulhaney
2405757/2022	Mr Jordan O'Brien
2405758/2022	Mr Henry Ohiegbomwan
2405759/2022	Mr Ahed Mobutu Obasohan Ojo
2405760/2022	Ms Mihaela Orbu
2405761/2022	Ms Agnieszka Parzonka
2405762/2022	Ms Lucie Sivakova
2405763/2022	Mr Anthony Wei
2405764/2022	Mr Darryl White
2406570/2022	Ms Karen McCarthy
2406571/2022	Mr Trevor Godby

Claimants: Miss S Garvey and others

Respondents: 1. T.W Parker (Paper) Limited (In Administration)
2. The Secretary of State for Business, Energy and Industrial Strategy

**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (a)** the amount (less any tax or social security contributions which fall to be deducted by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR
- (b)** (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or

(ii) in the case of an employee entitled to an award of universal credit for any period ("the UC period") which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or on account of universal credit for the UC period that would not have been paid if the person's earned income for that period was the same as immediately before the period to which the prescribed element is attributable.

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.