



EMPLOYMENT TRIBUNALS

Claimant: Miss N Gibson and others
Respondent: PARC (Essex) Limited
Heard at: East London Hearing Centre (hybrid)
On: 28 February 2023, 23 March 2023, 11 April 2023
Before: Employment Judge Townley
Members: Mr M Wood
Ms G Forrest

Representation

For the Claimant: In person
For the Respondent: Mr C McCann (Trustee, PARC (Essex) Limited)

RESERVED JUDGMENT

The judgment of the tribunal is that:

1. The Claimant's claims succeed only to the extent set out in paragraphs 16 - 36 below, in relation to the following:
 - 1.1 unfair dismissal,
 - 1.2 a redundancy payment,
 - 1.3 protective award for failure to consult,
 - 1.4 breach of contract,
 - 1.5 unpaid holiday pay,
 - 1.6 pay in lieu of notice,
 - 1.7 unauthorised deductions from wages.
2. Ms Frearson's (case number 3204407/2022) claim for maternity pay succeeds.

3. **The Respondent is ordered to pay to each claimant the total sums as set out in paragraphs 16 - 36 below.**

REASONS

Procedural history

1. By various claim forms presented on different dates between 23 June 2022 and 29 July 2023 the 21 claimants brought claims for unfair dismissal, for a redundancy payment, protective award for failure to consult, breach of contract, unpaid holiday pay, pay in lieu of notice, and unauthorised deductions from wages. Ms Frearson also claimed for unpaid maternity pay. In summary, on 16 June 2022 the Respondent said that there was a funding issue which meant that it had to cease its operations with immediate effect and that, as a result, the Claimants would not be paid and would no longer have jobs. No formal notice of dismissal was given and the Claimants did not receive P45 payslips. Initially the Respondent's case was that it had insufficient funds to pay the Claimants, but it denied dismissal averring that the Claimants had all chosen to no longer work for the Respondent.
2. At a preliminary hearing on 17 November 2022, Mr McCann representing the Respondent as a trustee, said that the Respondent was currently preparing papers to put the company into voluntary liquidation. Miss Stewart and Miss Dodge were identified as the lead Claimants who would have responsibility to co-ordinate filing of the bundles, indexes, and the schedules of loss from each of the Claimants for the final hearing. The matter was listed for a one-day hearing on 28 February 2023. The tribunal is grateful to both Miss Stewart and Miss Dodge for their assistance in quantifying the individual claims in this case. The tribunal hopes that this judgment provides the basis for the Claimants to seek redress through the appropriate government agencies.

The hearing

3. At the hearing on 28 February 2023, Miss Stewart and Miss Dodge attended in person. Eleven of the remaining 19 Claimants attended via CVP. Mr McCann, representing the Respondents as a trustee, attended via CVP. Mr McCann confirmed that the Respondent had lost its funding for its operation, and that the Respondent now accepted that the entire workforce, including all of the Claimants, had been made redundant due to the Respondent having ceased to operate due to loss of funding.
4. Mr McCann expressed sympathy for the Claimants and said that the Respondent did not seek to challenge the Claimants right to payments for redundancy, unpaid wages and all other related claims and that, secondly, the Respondent did not challenge the sum of any such payments that the tribunal considered were awardable. Mr McCann said that, from mid-May until mid-June 2022, the Claimants had not been paid any wages as would have been their normal entitlement having worked for the Respondent during this period. Mr McCann also said that he would not take any issue with any of the annual leave figures,

sums claimed for outstanding holiday pay, or pay in lieu of notice claimed by the Claimants. He also informed the tribunal that the Respondent would not disagree with any of the claims made by those Claimants who were unable to attend the hearing either in person or by CVP. It was agreed by the Respondent, that the Claimants would review their claim figures in terms of entitlement and accuracy and inform the tribunal of the sums that they believed they were each due. Mr McCann was to be copied into all the correspondence sent to the tribunal and was to inform the tribunal if he had any objections to the claims. He did not raise any objections. The tribunal reconvened on 27 March and 11 April 2023 to decide on remedy.

The basis for the tribunal's calculations on remedy

5. Unfair dismissal: the following formula was used:
 - (A) Basic award (years worked x net weekly wage) less redundancy award (where applicable) (increased by 5% s 124 ERA in relation to failure to provide last wage slip)
 - (B) Prescribed element: loss of wages to date of assessment (net average wage per week from 16 June 2022 to 28 February 2023, plus 5% uplift under Section 12A ERA, less any earnings from new employment (where applicable), payment in lieu of notice and recoupment of benefits (where stated).
 - (C) Non-prescribed element: awarded loss of statutory rights (£400 to each claimant) and loss of pensions rights (where provided) increased by 5% s 124 ERA in relation to failure to follow ACAS Codes of Practice)
 - (D) Additional award: breach of re-employment orders not applicable.
6. Redundancy payments: these were calculated based on each Claimant's total (complete) years of service multiplied by the gross weekly wage, adjusted to the relevant age criteria. The government's redundancy calculator was then used to determine the final figure based on the information provided to the tribunal by the Claimants.
7. Protective award for failure to consult: We have awarded a sum equivalent to one week's pay for each week of the protected period of 90 days (12 weeks), each of the Claimants who were entitled to claim this award by virtue of having two years' continuous employment.
8. Breach of contract: We have made no separate award to any of the claimants for breach of contract as any losses recoverable under this head of loss are covered within the awards (where applicable) for holiday pay, payment in lieu of notice, unpaid wages and maternity pay.
9. Unpaid wages: it was agreed by the Respondents that none of the claimants had been paid wages for a period of four weeks before the company ceased to operate on 16 June. The tribunal awarded each Claimant four-weeks of their gross weekly wage.
10. Holiday pay: the tribunal used the information submitted by the Claimants in

relation to their holiday pay claims. Where such information was not provided by the individual Claimants, the tribunal has not been in a position to make any award. While some Claimants made claims for holiday pay after 16 June 2022, the tribunal did not award any holiday pay beyond that date as the Respondent had ceased to operate and no-one was working for it.

11. Pay in lieu of notice: The tribunal did not have access to the contracts of all 21 claimants. The Respondent agreed, and the tribunal accepted, that the amount of notice pay claimed by each Claimant would be accepted and, where that was not specified, the tribunal would calculate the pay in lieu of notice as one week for each year's service.
12. We have worked with the information we have been provided with to the best of our ability, and have attempted to be just and equitable in all cases. We were also minded that the Respondent did not challenge the validity or accuracy of any of the claims submitted by the Claimants.
13. A number of Claimants claimed loss of earnings from termination of their contracts (16 June 2022) until the date of the hearing (28 February 2023). As this is a redundancy due to the employer ceasing to operate, we did not allow any claims for loss of earnings past the date when the Respondent ceased to operate.
14. All calculations in relation to unpaid wages, holiday pay, and pay in lieu of notice have been calculated as a gross sum as the claimants will be liable for tax on those elements of their claims.
15. The respective Claimant's claims are calculated in alphabetical order, as set out below. These are the tribunal's unanimous findings.

The Remedy Calculations

16. **Tierney Butcher (Case number 3203994/2022)**

Unfair dismissal (A) £0 plus (B) £1418.50 plus (C) £420 = **£1838.50**

Redundancy pay (4 years x £50 gross weekly wages (under 21)) **£200**

Protective award for failure to consult **£1036.00**

Unpaid wages **£413.10**

Holiday pay not specified and no award made)

Notice pay (4 weeks @£50) **£200**

Breach of contract: No separate award

TOTAL SUM AWARDED: £3687.60

17. **Suzanne Dodge (Case number 3204540/2022)**

Unfair dismissal () £0.00 + £0.00 + £477.63 = £477.63

Redundancy pay (7 years x £299 gross weekly pay) £2093

Protective award for failure to consult: £1723.38

Unpaid wages £1148.92

Holiday pay £631.75

Notice Pay (7 weeks x £299) £2093

Breach of contract: No separate award

TOTAL SUM AWARDED: £8167.68

18. **Jayne Dow (Case number 3204411/2022)**

Unfair dismissal £0.00 + £6542.56 + £420 = £6962.25

Redundancy Pay (7 years x £232.75) **£2443.88**

Protective award for failure to consult: £1301.17

Unpaid wages (£232.75 gross weekly wage x 4) **£931**

Holiday pay **£1555.15**

Notice pay (5 weeks x £232.75) **£1163.75**

Breach of contract: No separate award

TOTAL SUM AWARDED: £14357.20

19. **Layla Earley (Case number 3204150/2022)**

Unfair dismissal (£0.00 + £2987.25 + £525.00 = £3512.25.

Redundancy Pay (7 years x £152) **£912**

Protective award for failure to consult: £1868.84

Unpaid wages (£152 x 4) £1216

Holiday pay £250.80

Notice pay £12.16

Breach of contract: No separate award

TOTAL SUM AWARDED: £7772.05

20. **Emma Frearson (Case number 3204407/2022)**

Unfair dismissal ((0.00 + £7629.30 + £617.85 = £8247.15

Redundancy Pay (8 years x £382.50) £3060

Protective award for failure to consult: £972.00

Unpaid wages (£382.50 x 4) £1530

Holiday pay £1071

Notice pay £3060

Outstanding Maternity pay £380.46

Breach of contract: No separate award

TOTAL SUM AWARDED: £18320.61

21. **Chris Frisbee (Case number 3203978/2022)**

Unfair dismissal £0.00 + £1204.49 + £581.11= £1785.60

Redundancy Pay (4 weeks x £365.96) £1463.84

Protective award for failure to consult: £2272.00

Unpaid wages (4 weeks x £365.96) £1463.84

Holiday pay £826.25

Notice pay £1463.84

Breach of contract: No separate award

TOTAL SUM AWARDED: £9275.37

22. **Niamh Gibson (Case number 3203961/2022)**

Unfair dismissal (£0.00 + £0.00 + £634.20 = £634.20

Redundancy Pay (5 weeks x £356.25) £1068.75

Protective award for failure to consult: £2054.47

Unpaid wages (4 weeks x £356.25) £1425

Holiday pay £1068.75

Notice pay £1781.25

Breach of contract: No separate award

TOTAL SUM AWARDED: £8032.42

23. **Georgia Gray (Case number 3203971/2022)**

Unfair dismissal £0.00 + £5636.83 + £670.99 = £6307.82

Redundancy Pay (6 weeks x £345) £1035

Protective award for failure to consult: £2267.28

Unpaid wages (4 weeks x 245) £1380

Holiday pay £207

Notice pay £1725

Breach of contract: No separate award

TOTAL SUM AWARDED: £12922.10

24. **Jono Hale (Case number 3203977/2022)**

Unfair dismissal (£0.00+ £.0.00 + £660.21 = £660.21

Redundancy Pay (9 weeks x £416.62) £3124.65

Protective award for failure to consult: £1872.39

Unpaid wages (4 weeks x 416.62) £1666.48

Holiday pay £1620

Notice pay £3739.58

Breach of contract: No separate award

TOTAL SUM AWARDED: £12683.31

25. **Jessica Howett (Case number 3203993/2022)**

Unfair Dismissal – No award (requirement of two years continuous service not met.)

Redundancy Pay: No award (requirement of two years continuous service not met)

Protective award for failure to consult: no award) requirement of two years continuous service not met)

Unpaid wages (4 weeks x £37.78) £151.12

Holiday pay £5.04

Notice pay £75.56

Breach of contract: No separate award

TOTAL SUM AWARDED: £231.72

26. **Amanda Hurford (Case number 3204574/2022)**

Unfair dismissal £0.00+£352.01+£425.00= £777.01

Redundancy Pay (4 weeks x £33.25) £199.50

Protective award for failure to consult: £232.80

Unpaid wages (4 weeks x £33.25) £199.50

Holiday pay £33.42

Notice pay £166.25

Breach of contract: No separate award

TOTAL SUM AWARDED: £1608.48

27. **Sarah Hutchinson (Case number 3204021/2022)**

Unfair dismissal £0.00 + £4447.44 + £420 = £4867.47

Redundancy Pay (2 weeks x £359.22) £1077.66

Protective award for failure to consult: £2778.56

Unpaid wages (4 weeks x £359.22) £1436. 88

Holiday pay £247

Notice pay £718.44

Breach of contract: No separate award

TOTAL SUM AWARDED: £11126.01

28. **Ross Lines (Case number 3203970/2022)**

Unfair dismissal £0.00 + £0.00 + £832.24 = £832.24

Redundancy Pay (9 weeks x £323.90) £2753.15

Protective award for failure to consult: £971.70

Unpaid wages (4 weeks x £323.90) £1295.56

Holiday pay £380

Notice pay £2915.10

Breach of contract: No separate award

TOTAL SUM AWARDED: £9147.75

29. **Lawrence Lubbock (Case number 3203962/2022)**

Unfair dismissal £0.00 + £2293.60 + £653.00 = £2946.60

Redundancy Pay (2 weeks x £546.75) £1093.50

Protective award for failure to consult: £5334.39

Unpaid wages (4 weeks x £546.75) £2187

Holiday pay £1421.55

Notice pay £65.61

Breach of contract: No separate award

TOTAL AMOUNT PAYABLE: £13048.65

30. **Kira North (Case number 3204053/2022)**

Unfair dismissal £0.00 + ££655.23 + £420.00 = £1075.23

Redundancy Pay (4 weeks x £ 215.73) £862.92

Protective award for failure to consult: £0

Unpaid wages (4 weeks x £215.73) £1725.84

Holiday pay Nil (no claim)

Notice pay £862.92

Breach of contract: No separate award

TOTAL SUM AWARDED: £4526.91

31. **Ian Ridgewell (Case number 3204022/2022)**

Unfair Dismissal – No award made (requirement of two years continuous service)

Redundancy Pay: No award made (requirement of two years continuous service not met)

Protective award for failure to consult: no award made (requirement of two year continuous service not met)

Loss of wages (4 weeks x £237.50) £950

Holiday pay £363.85

Notice pay £950

Breach of contract: No separate award

TOTAL SUM AWARDED: £2263.85

32. **Callum Riordan (Case number 3203999/2022)**

Unfair dismissal – No Unfair Dismissal Claim

Redundancy Pay (4 weeks x £272) £544

Protective award for failure to consult: £2176.00

Loss of wages (4 weeks x £272) £1088

Holiday pay £1156

Notice pay £1088

Breach of contract: No separate award

TOTAL SUM AWARDED: £6052

33. **Jake Simmons (Case no 3204268/2022)**

Unfair dismissal – No unfair dismissal claim

Redundancy Pay (3 weeks x £37.82) £56.73

Protective award for failure to consult: £302.56

Unpaid wages £277.56

Holiday pay Nil (no claim)

Notice pay £151.28 (4 weeks)

Breach of contract: No separate award

TOTAL SUM AWARDED: £788.13

34. **Sam Smith (Case number 3204267/2022)**

Unfair dismissal £0.00 + £462.67 + £420.00 = £882.67

Redundancy Pay (6 weeks x £146.88) £514.08

Protective award for failure to consult: £881.28

Unpaid wages (4 x £146.88) £587.52

Holiday pay Nil (no claim made)

Notice pay £881.28

Breach of contract: No separate award

TOTAL SUM AWARDED: £3746.83

35. **Amanda Stewart (Case number 3203963/2022)**

Unfair dismissal £0.00 + £0.00 + £565.90

Redundancy Pay (13 weeks x £258.73) £4139.68

Protective award for failure to consult: £0.

Unpaid wages (4 x 258.73) £1034.92

Holiday pay £1136.41

Notice pay £3104.76

Breach of contract: No separate award

TOTAL SUM AWARDED: £9981.67

36. **Lindsey Whitfield (Case number 3203972/2022)**

Unfair dismissal £0.00 + £1134.13+ £526.47 = £1660.60

Redundancy Pay (8 weeks x £261.25) £2090

Protective award for failure to consult £1045.00

Unpaid wages (4 x £261.25) £1045

Holiday pay £454.10

Notice pay £2090

Breach of contract: No separate award

TOTAL SUM AWARDED: £8384.70

Employment Judge L Townley
Date: 6 June 2023