



EMPLOYMENT TRIBUNALS

Case No. Claimants
1401526/2023 Ms K Chadwick
1401527/2023 Mr J Matthews
1401528/2023 Mr D Murray
1401529/2023 Mr J Glen

Respondents: **1. FBE Realisations 2021 Limited (In Administration)**
 2. The Secretary of State for Business and Trade

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The above claims were issued in the Bristol Employment Tribunals on 18 April 2023 pursuant to section 192(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 on the grounds that the employer has failed to pay a protective award.

UPON reading the application submitted by the Claimants on behalf of the parties.

AND UPON the First Respondent failing to present a response to the Tribunal pursuant to Rule 16 Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

The Judgment of the Employment Tribunal made under Rule 21 of Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 is that:

Protective Award

1. The Claimants marked in the Schedule attached were employed by the First Respondent.
2. The Claimants set out in the Schedule attached were dismissed by the First Respondent by reason of redundancy starting on 5 March 2020.
3. In relation to the Claimants named in the attached Schedule to this Judgment, the First Respondent failed to adequately comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the claim for a protective award brought under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 succeeds.

4. The First Respondent is ordered to pay remuneration to the Claimants named in the attached Schedule for a protected period of 90 days beginning 5 March 2020. (being the date on which the first of the dismissals to which the complaint relates took effect).
5. The Claimants in the schedule were informed on 2 March 2023 that payments would not be made to them. The claims were then brought within three months of the failure to pay remuneration.
6. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply to this award.

Regional Employment Judge Pirani

Date: 31 August 2023

JUDGMENT SENT TO THE PARTIES ON:

6 September 2023

FOR THE TRIBUNAL OFFICE

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First Respondent: FBE Realisations 2021 Limited

Second Respondent: 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.