



EMPLOYMENT TRIBUNALS

Claimant: Mr Mark King, Mr Lewis Bates, Mr Joshua Dempsey, Mr Philip Dickenson, Mr Gary Gibson, Mr Stuart Godwin, Mr Kevin Guest, Mr Peter Harrison, Mr Vincent Humphries, Mr Craig Jarvis, Mr Thomas Johnson, Mr Alan O'Connor, Mr Paul Orchard, Mr Gary Pearce, Mr Paul Riley, Mr Kevin Riley, Mr Ian Roberts, Mr John Stokes, Mr Paul Whitehouse, Mr Simon Williams

Respondent: Lodent Precision Limited (IN ADMINISTRATION)

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The Tribunal makes a protective award in favour of the Claimants and orders the Respondent under section 189 (3) of the Trade Union and Labour Relations (Consolidation) Act 1992 to pay to the Claimants a payment equivalent to remuneration for the period of 90 days beginning on 14th October 2022.
2. The Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996 apply to this award.

REASONS

3. The claimants were employed by the first respondent which went into administration on 14th October 2022. On 14th October 2022, all employees of the respondent, of which there were more than 20, were made redundant. The number of employees and the redundancy has been confirmed by the administrators. The respondent failed to comply with the requirements within Section 188 Trade Union and Labour Regulations (Consolidation) Act 1992, and did not consult with the employees at all regarding their redundancy. They were told on the 14th October 2022 that they were redundant. I am told by the claimant's representative that no confirmation was sent in writing and therefore there are no documents available to be provided.
4. The claimants brought an employment tribunal claim which was stayed pending consent from the administrators of the respondent.

5. On 16th December 2022 the proceedings were served on the respondent. The respondent and the administrators failed to submit an ET3.
6. A Preliminary Hearing for Case Management took place via telephone on 29th September 2023. The claimant's representative, Mr Thompson of Griffin Legal LLP, made submissions confirming the points below at paragraph 9 and in relation to a Rule 21 judgment. The Tribunal then considered the case to be determined on the papers.
7. On full consideration of the file of proceedings, including the witness statement of Mr Mark King, and the consent from the administrators, it was possible to issue this Judgment under rule 21 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 in respect of the claim for protective awards without a hearing.
8. By letter dated 31st March 2023 the administrators confirmed that more than 20 employees were made redundant. They gave consent for the claims to proceed.
9. Mr Mark King for the claimants has provided a witness statement. He confirmed that there were 20 or more employees at the one establishment, being Coppice Side Ind Est, Collier Cl, Coppice Side, Brownhills, Walsall WS8 7EU. There was no trade union involved or employees being members of trade unions. There is no knowledge of a trade union being recognised by the respondent. No opportunity was given by the respondent to the employees to elect employee representatives. No employee was consulted with by the respondent regarding proposed redundancies prior to the making of the redundancies on 14th October 2022. There was no proper warning or consultation at all with the claimants. No special circumstances applied.
10. In all the circumstances, the respondent is in breach of the duty under section 188 of the 1992 Act and the Tribunal makes an award under section 189 in favour of each claimant listed above and in the Schedule attached for the maximum protected period of 90 days commencing on 14th October 2022.
11. The respondent is advised of the provisions of regulation 6 of the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, such that, within ten days of the decision in these proceedings being promulgated, the respondent must comply with the provisions of regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State for Work and Pensions the following information in writing:
 - (a) The name, address and national insurance number of each claimant to whom the award relates; and
 - (b) The date of termination of the employment of each claimant to whom the award relates.
12. The respondent will not be required to make any payment under the protective awards until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the respondent.

Employment Judge L Knowles

Date: 29th September 2023