



EMPLOYMENT TRIBUNALS

Claimants: The claimants named on the schedule annexed to this Judgment

Respondent: Howard Russell Construction Ltd (in administration)

JUDGMENT ON LIABILITY AND REMEDY

Employment Tribunals Rules of Procedure 2013 – Rule 21

The Judgment of the Employment Tribunal is as follows:

1. The claimants' claims under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") of a failure by the respondent to comply with the requirements of section 188 of the 1992 Act are well-founded.
2. The Tribunal orders the respondent, by way of a protective award under section 189(3) of the 1992 Act, to pay to the claimants a payment equivalent to remuneration for the period of 90 days beginning on 2 May 2023.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to the protective award.

REASONS

1. The claimants made an application to the Employment Tribunal on 25 July 2023 claiming a protective award pursuant to section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") on the grounds that the respondent did not consult with the affected employees and that it proposed to make redundant 20 or more employees within a period of 30 days. The first dismissal took place on 2 May 2023.
2. The respondent was required to file a response by August 2023. The respondent has failed to file a response. The respondent entered into administration on 2 May 2023. The administrator wrote to the Tribunal on 25 August 2023 giving consent for these proceedings to continue.
3. There was no proper warning or consultation undertaken with a recognised trade union or the claimants. There was no consultation with the claimants on 2 May 2023. No employee representatives had been elected or appointed for any such consultation within section 188A of the 1992 Act.

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4. In 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 the claimants for the maximum protected period of 90 days commencing on 2 May 2023.
5. The respondent is advised of the provisions of regulation 6 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within ten days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the respondent must comply with the provisions of regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State the following information in writing:
 - a. The name, address and national insurance number of the claimant to whom the award relates; and
 - b. The date of termination of the employment of the claimant.
6. The respondent will not be required to make any payment under the protective award 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.
7. The above Judgement has been entered on the basis of the information provided by the claimant on the ET1 form.

Employment Judge Arullendran

Date: 27 September 2023

List of cases for	2500276 - Howard Russell Construction Limited (in administration)
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Case Number	Claimant Name
2501753/2023	Mr Christopher Gallagher
2501762/2023	Mr Adam Lee Davison
2501763/2023	Mr Adam Michael Hughes
2501764/2023	Mr Alfred John Smith
2501765/2023	Mr Andrew Brian Todhunter
2501766/2023	Mr Antony Lee Phillips
2501767/2023	Mr Brian Wilsher
2501768/2023	Mr Christopher John Brown
2501769/2023	Mr Christopher Luke Gallagher
2501770/2023	Mr Christopher Watson
2501771/2023	Mr Clifford McMorn
2501772/2023	Mr Craig Middlemass
2501773/2023	Mr Daniel Mathew Appleby
2501774/2023	Mr David John Batey
2501775/2023	Mr David John Scrimgeour
2501776/2023	Mr David James Lever
2501777/2023	Mr Declan Mackenzie
2501778/2023	Mrs Diane Louise Tanti
2501779/2023	Mr Edward Peter Taylor
2501780/2023	Miss Hannah Elizabeth Roper
2501781/2023	Miss Hollie Megan Patterson
2501782/2023	Mr Ian Edward Shanley
2501783/2023	Mr Kevin Joyce
2501784/2023	Miss Kirsty Natasha Wood
2501785/2023	Mr Mark Lindsay
2501786/2023	Mr Matthew Keating
2501787/2023	Mr Matthew Frank Thomas

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2501788/2023	Mr Max Alexander Digman
2501789/2023	Mr Michael William Callcott
2501790/2023	Mr Miles Henry McQueen
2501791/2023	Mrs Naomi Mary Halliburton
2501792/2023	Mr Paul Ernest Crossland
2501793/2023	Mr Shaun Richard Powell
2501794/2023	Miss Sophie Elizabeth Dunn
2501795/2023	Mr Thomas Peter Goodall