



EMPLOYMENT TRIBUNALS

Claimant: Mr S Broadhurst

Respondent: R L Davies & Son Ltd (in administration)

JUDGMENT

Employment Tribunals Rules of Procedure – Rule 21

The Respondent having stated that the claim was not contested, and on the information before the Judge, the Judgment of the Tribunal is that:

1. The Respondent failed to consult with the Claimant, being a person who may have been affected by proposals to dismiss or by measures taken in connection with the dismissal of twenty or more employees, in breach of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“Act”).
2. Under Section 189(1)(d), (2), (3) and (4) of the Act, the Tribunal makes a protective award in respect of the Claimant, and the Respondent is ordered to pay remuneration to the Claimant for a protected period of 90 days beginning on 16 February 2023.
3. The Employment Protection (Recoupment of Benefits) Regulations 1996 apply.

REASONS

1. The Claimant claimed a protective award in respect of breach of the collective consultation requirements. The Response presented to the claim by the Respondent confirmed that the claim was not contested.
2. The Tribunal makes the following findings based upon the claim:
 - a. The Respondent had no trade union recognised for collective bargaining, consultation or negotiation with the workforce. There were no elected representatives;
 - b. The Claimant was advised that the Respondent had been placed into administration on 16 February 2023. The first of the redundancies took effect on that day, with 29 redundancies being made. The Claimant was one of 9 employees made redundant at a later date, 15 March 2023. There was no consultation with the Claimant or his colleagues;

- c. The Respondent employed over 20 employees at the establishment, all of whom were dismissed within a 90-day period, and it had been proposed that they be made redundant within that period.
3. There was no proper warning or notice given to, or consultation with, the workforce. No employee representatives had been elected or appointed for any such consultation within Section 188A of the 1992 Act. The dismissals were put into effect without any consultation or information being provided in writing in advance.
4. In these circumstances, the Respondent was 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 Claimant for the maximum protected period of 90 days commencing on 16 February 2023.
5. The Respondent is advised of the provisions of Regulation 5 of the Employment Protection (Recoupment of Benefits) Regulations 1996, such that, within 10 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 for Business and Trade the following Information in writing:
 - a. the name, address and national insurance number of the employee to whom the award relates; and
 - b. the date of termination of the employment of the employee.
6. The Respondent will not be required to make any payment under the protective awards made 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 S Jenkins
Date: 19 October 2023

JUDGMENT SENT TO THE PARTIES ON 20 October 2023

FOR THE TRIBUNAL OFFICE Mr N Roche

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