



EMPLOYMENT TRIBUNALS

Claimant

Respondent

v

**Mr. W. Martayn & or
Mr. M. Humpage**

**Hawk Developments (U.K.) Limited
in Voluntary Liquidation**

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

The respondent not having presented a response to the claims prior to the rule 21 judgement and on the information before the Judge, the judgement of the Tribunal is that :-

1. The claimants' complaints 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 31 May 2022.
3. The Employment Protection (Recoupment of Job seeker's Allowance and Income Support) Regulations 1996 apply to this award.

REASONS

1. The claimants claim protective awards in respect of breaches of the collective consultation requirements under the 1992 Act. No response was presented to the claim by the respondent.
2. The respondent is in voluntary liquidation.
3. On full consideration of the file of proceedings it was possible to issue this judgement 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.
4. On the information provided, the Tribunal makes the following findings.
5. The respondent employed over 20 employees at the establishment.
6. The claimants were informed they were compulsory redundant on 31 May 2022. This did not amount to consultation within the meaning of the 1992 Act.
7. The respondent went into voluntary liquidation on 15 June 2022.
8. There was no proper warning or notice given to or consultation with the claimants between 31 May 2022 and 15 June 2022. No employee was part

of a trade union and no employee representatives had been elected or appointed for any such consultation within the meaning of section 188A of the 1992 Act.

9. 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 31 May 2022.
10. The respondent is advised of the provisions of regulation 6 of the Employment Protection Recruitment of Job Seekers Allowance and Income Support Regulations of 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 provide 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
11. 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 recruitment notice or notification on the employer within 21 days of receipt of the required information from the respondent.

Employment Judge Wedderspoon
31 October 2023

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