



# **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case Number: 4101859/2023**

**Employment Judge M Robison**

**Mr S Balfour**

**Claimant**

**Arjowiggins Scotland Limited (in Administration)**

**Respondent**

## **JUDGMENT Rule 21 of the Employment Tribunal Rules of Procedure 2013**

The Employment Judge has decided to issue the following judgment on the available material under rule 21.

1. The claimant is entitled to bring this claim because none of the situations in s.189(1)(a), (b) or (c) of the Trade Union and Labour Relations (Consolidation) Act 1992 apply. Although an independent trade union was recognised by the respondent who had entered into a collective agreement with Unite the Union in respect of manual workers, the claimant is not of a description in respect of which an independent trade union is recognised.
2. The claimant worked as a Financial Controller, a role not covered by the relevant collective agreement. He was dismissed as redundant on 16 February 2023 by the respondent at their site at Stoneywood Mill.

3. The respondent is in administration, but the administrator consented to the continuation of these proceedings in a letter dated 22 March 2023.
4. The response to the proceedings was struck out under Rule 37(1)(a) on 4 October 2023 although the respondent stated an intention to defend the claim.
5. The respondent proposed to dismiss as redundant more than 20 employees at one establishment, namely Stoneywood Mill, within a period of 90 days or less.
6. The complaint that the respondent failed to comply with the requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 to consult employees affected by proposed dismissals before the first dismissal took effect is well founded.
7. The Tribunal makes a protective award in respect of the claimant. The respondent is ordered to pay remuneration for the protected period. The protected period begins on 16 February 2023 and is for 90 days.

<b>Employment Judge:</b>	<b>M Robison</b>
<b>Date of Judgment:</b>	<b>11 October 2023</b>
<b>Entered in register:</b>	<b>24 October 2023</b>
<b>and copied to parties</b>	