



EMPLOYMENT TRIBUNALS

Claimants: Mr B Michaels & Others (See Schedule)

Respondent: NWP Electrical & Mechanical Limited

Heard at: Cardiff by video (CVP)

On 11 April 2023

Before: Employment Judge R Brace
Members:
Mrs R Hartwell
Mrs A Burge

Representation

Claimant: Ms D Bowd (CAB adviser)

Respondent: Did not attend

JUDGMENT

The unanimous decision of the Employment Tribunal is that:

The claims are all well-founded in that the respondent failed to comply with its statutory collective consultation obligations under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 before proposed redundancy dismissals took effect at its establishment at Engineer House, Llys Edmund Prys, St Asaph LL17 0JA in respect of the whole workforce employed there.

Under Section 189(1)(d), (2), (3) and (4), the Tribunal makes a protective award in respect of the claimants named in the schedule and the respondent is ordered to pay remuneration to each claimant for a protected period of 90 days beginning on 8 July 2022.

The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

REASONS

1. Following early conciliation which commenced on 4 October 2022 and ended on 7 October 2022 [1], by a claim form presented on 7 November 2022, the claimants claimed a protective award in respect of breach of the collective

consultation requirements [5]. No response was presented to the claims by respondent. The Secretary of State for Business, Energy, and Industrial Strategy had not been formally added as a second respondent but had been sent a copy of the ET1 claim form pursuant to rule 96 Employment Tribunal Rules 2013 [32] and had sent in an ET3 indicating that they were neither supporting nor resisting the claims, that they did not propose to be represented at any future hearing and requested that the ET3 be acknowledged as their written submissions [34].

2. The Tribunal had a witness statement from Bryan Michaels which it took as his evidence. The witness was subject to further questions from the Tribunal. The Tribunal also had the benefit of a 60 page bundle ("Bundle").
3. The Tribunal makes the following findings.
4. The respondent carried on business as mechanical and electrical contractors and employing over 20 employees including the claimants at St Asaph, the 'establishment' for the purposes of this claim.
5. There was no trade union recognised for collective bargaining, consultation or negotiation with the workforce.
6. The employees were notified on 8 July 2022 that administrators had been appointed and all staff were made redundant on that date. The respondent company was subsequently formally put into creditors voluntary liquidation on 7 December 2022.
7. 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 of the whole workforce were put into effect at once.
8. In these 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 claimant for the maximum protected period of 90 days commencing on 8 July 2022.
9. The respondent is advised of the provisions of Regulation 5 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within 10 days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the first 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 every employee to whom the award relates; and
 - b. the date of termination of the employment of each such employee.

10. 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 first respondent.

Employment Judge Brace

Date: 11 April 2023

JUDGMENT SENT TO THE PARTIES ON 11 April 2023

FOR THE TRIBUNAL OFFICE Mr N Roche

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Multiple Schedule		
CASE NUMBER	CLAMANT NAME	RESPONDENT NAME
2408763/2022	Mr Bryan Michaels	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410214/2022	Mr Jordan Brice	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410215/2022	Mrs Andrea Jones	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410216/2022	Mr Darren Williams	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410217/2022	Mr Edward Burley	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410218/2022	Mr Bryan Michaels	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410219/2022	Mr David Harrop	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410220/2022	Mr Crispian Goodfellow	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410221/2022	Mr Malcolm Keyes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410222/2022	Mr Sam Evans	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410223/2022	Mr Aaron Keyes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410224/2022	Mr Edward Murphy	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410225/2022	Mr Lee Hyland	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410226/2022	Mr Nicholas Garnett	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410227/2022	Ms Danielle Evans	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410228/2022	Mrs Helen Ellison-Williams	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410229/2022	Miss Ceinwen Hughes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410230/2022	Mr Ashley Haken	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410231/2022	Mrs Jennifer Williams	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410232/2022	Mr Jason Byrne	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410233/2022	Mr Jamie Lee Lunt	NWP Electrical and Mechanical Limited (In Creditors

		Voluntary Liquidation)
2410234/2022	Mr Craig Smith	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410235/2022	Mr Daniel Hughes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410236/2022	Mr Steven Cusack	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410237/2022	Mr Kelvin Rathnayake Mudiyansele	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410238/2022	Mr Patrick Parker	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410239/2022	Mr Christopher Keyes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410240/2022	Mr Karl Jones	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410241/2022	Mr Shaun Marl	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410242/2022	Mr Louis Hyland	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410243/2022	Mr Neil Byrne	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410244/2022	Mr Kevin Evans	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410245/2022	Miss Tammy Jones	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410246/2022	Mr John Dougherty	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410247/2022	Mr Anthony William Smith	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410248/2022	Mrs Marina Smith	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410249/2022	Mr Ultan Gaffney	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410250/2022	Miss Layla Roberts	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410251/2022	Mr Damien Hughes	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410252/2022	Mr Matthew Jones	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)
2410253/2022	Mr Eden Price	NWP Electrical and Mechanical Limited (In Creditors Voluntary Liquidation)