



EMPLOYMENT TRIBUNALS

Claimant: Mr J Dalby

Respondent (1): PPL Realisations (Leeds) Limited (In Administration) formerly
Pharmaceutical Packaging (Leeds) Limited in administration

Respondent (2): Secretary of State for Business & Trade

Heard at Leeds by Cloud Video Platform (CVP) **On:** 30 April 2024

Before: Employment Judge Shulman

Appearances

For the claimant: Mr K Pal (Counsel)

For the respondents: Neither the first nor second respondent were present or represented

JUDGMENT

1. The Judgment of the Tribunal is that the claimant's complaint under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act) of a failure by the first respondent to comply with the requirements of section 188 of the Act is well-founded. The Tribunal orders by way of protective award under section 189(3) of the Act to pay to the claimant who was employed at the first respondent's Holbeck site who was dismissed for redundancy on 6 July 2023 remuneration for the period of 90 days beginning on 6 July 2023. The claimant's gross daily rate of remuneration was £71.77 at all material times. The Recoupment Regulations apply.
2. There is a hearing date of 24 June 2024 which is hereby vacated by the consent of the claimant.
3. Since the hearing I checked the proper title of the first respondent and it is PPL Realisations (Leeds) Limited (In Administration).

REASONS

1. Claim

- 1.1. This is a claim for a protected award.

2. Issues

- 2.1. Were there 20 or more employees at the claimant's place of work at the time of his dismissal?
- 2.2. Was the claimant one of those employees?
- 2.3. Were there appointed representatives or was there a trade union recognised by the first respondent?
- 2.4. Did the claimant have the benefit of consultation before his dismissal?
- 2.5. Was the claimant an affected employee whereby the first respondent failed to comply with the requirements set out in paragraphs 2.1 to 2.4 above?
- 2.6. If so is the claimant entitled to a declaration accordingly and a protective award?
- 2.7. Was there a protected period beginning with the date of the claimant's dismissal not exceeding 90 days?
- 2.8. What was the claimant's daily rate of gross remuneration.

3. The Law

- 3.1. The Tribunal has to have regard to the following provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), namely, sections 188, 189 and 190.
- 3.2. Mr Pal has referred the Tribunal to **Susie Radin Limited v GMB and Others** [2004] EWCA 180, in which Peter Gibson LJ gave guidance as to the length of a protected period. He said that the starting point is 90 days (which is the maximum permitted by the Act) and should be reduced only if there are mitigating circumstances.

4. Facts

The Tribunal having carefully reviewed all the evidence (both oral and documentary) before it finds the following facts (proved on the balance of probabilities):

- 4.1. The claimant was employed by the first respondent as a flexographic label printer at one establishment in Water Lane, Holbeck Leeds.
- 4.2. The first respondent employed 20 or 21 employees at the time of the claimant's dismissal.
- 4.3. That dismissal came on 6 July 2023 by way of redundancy without written or other warning, consultation or notice.
- 4.4. There were no elected representatives in the first respondent's organisation and there was no recognised trade union.

4.5. The claimant's daily remuneration was at 6 July 2023 £71.77 gross.

5. **Determination of the Issues**

(After listening to the factual and legal submissions made by and on behalf of the claimant and after reading the grounds filed on behalf of the second respondent):

- 5.1. There were at least 20 employees at the claimant's place of work at the time of his dismissal.
- 5.2. The claimant was one of those dismissed.
- 5.3. There were no appointed representatives nor was there a trade union recognised by the first respondent.
- 5.4. The claimant was not consulted prior to his dismissal, nor was he given any written information about it at all.
- 5.5. For the purposes of the Act the Tribunal finds that the claimant was an affected employee. As a result the Tribunal finds that the first respondent failed to comply with section 188 of the Act in respect of the claimant.
- 5.6. In the circumstances the claimant is entitled to a declaration accordingly and a protective award.
- 5.7. The protected period will start on 6 July 2023 and will be 90 days from and including that date.
- 5.8. The claimant's daily rate of remuneration was £71.77 gross.

J Shulman

Employment Judge Shulman

Date: 2 May 2024

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