



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4102079/2023 and others**

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**Employment Judge Campbell**

**Mr R Mackie & others**

**Claimants**

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**Glasvegan Limited**

**Respondent**

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

15 Each of the 19 claims under the above multiple is struck out under rule 37 of the  
Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

### **REASONS**

1. This is a consolidated set of 19 claims, each by a former employee of the  
respondent who was dismissed by reason of redundancy on 27 November  
2022. The complaints in summary were that:

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a. The respondent was under a duty to appoint employee representatives  
for the purpose of collective consultation about the redundancy  
situation, under section 188A of the Trade Union and Labour Relations  
(Consolidation) Act 1992 (the 'Act'); and

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b. The respondent was under a duty to collectively consult with employee  
representatives under section 188 of the Act; but

c. The respondent had complied with neither requirement, and so it was  
appropriate to make a protective award in favour of each claimant  
under section 189 of the Act.

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2. A preliminary hearing took place on 7 February 2024 under rule 53 of the  
Employment Tribunals (Constitution and Rules of Procedure) Regulations

2013 (the 'Rules'). The issue to be determined was whether Ms Arita Bereza, a director and shareholder of the respondent, was also one of its employees at the time when the respondent was proposing to dismiss the claimants, so that the group of affected employees numbered 20 in total and the twin requirements to appoint of employee representatives and to carry out collective consultation with them under sections 188 and 188A of the Act were triggered.

3. A written judgment with reasons was issued on 21 May 2024. It was decided that Ms Bereza had not been an employee at the time when the dismissal of the claimants was being proposed, and that in any event had she been an employee there was no proposal to dismiss her.

4. The terms of the judgment appeared to preclude the claims from proceeding any further given that the statutory requirement for each complaint – a group of at least 20 employees being affected - had not been satisfied.

5. It was stated in the final paragraph of the judgment that the parties were ordered to confirm their position as regards whether the claims could progress and to do so within 21 days of the judgment being issued to them.

6. No response was received by the claimants' solicitor before the deadline set, or after. The respondent confirmed by email dated 12 June 2024 that it was satisfied with the decision and did not wish to take any further action. A reminder letter was sent to the claimant's solicitor on 13 June 2024 and requiring a reply within 7 days. This prompted no response.

7. On the basis of the above it is decided that the claims should be struck out under rule 37 of the Rules, and in particular:

a. That under rule 37(1)(a) the claims have no reasonable prospects of success; and

b. That under rule 37(1)(d) the claims are not being actively pursued.

8. The claimants via their solicitor have been given a reasonable opportunity to make representations by orders given in the judgment and follow up letter from the employment tribunal. Rule 37(2) is deemed to have been satisfied.

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**Employment Judge: B Campbell**  
**Date of Judgment: 30 July 2024**  
**Entered in register: 30 July 2024**  
**and copied to parties**

## Multiple Schedule

Multiple: 4100411 - Glasvegan Ltd

Case Number	Case Name
4102079/2023	Ronan Mackie -v- Glasvegan Ltd
4102080/2023	Mr sean finlay -v- Glasvegan Ltd
4102081/2023	Mr ronan mackie -v- Glasvegan Ltd
4102082/2023	Ms sophie corser -v- Glasvegan Ltd
4102083/2023	Ms laura yapp -v- Glasvegan Ltd
4102084/2023	Ms rosie mills -v- Glasvegan Ltd
4102085/2023	Mr david hendry -v- Glasvegan Ltd
4102086/2023	Mr lewis smith -v- Glasvegan Ltd
4102087/2023	Ms linda athiainen -v- Glasvegan Ltd
4102088/2023	Ms sarah hopkinson -v- Glasvegan Ltd
4102089/2023	Mr ale montesinos -v- Glasvegan Ltd
4102090/2023	Mr kieran coles -v- Glasvegan Ltd