



EMPLOYMENT TRIBUNALS

Claimant: Mr S Albaradura & Others

Respondent: 1. W.H. BARLEY (Transport and Storage) Limited
(In Administration)

2. Secretary for State for Business & Trade

JUDGMENT

- (1) The respondent has failed to comply with a requirement of section 188 of the Trade Union & Labour Relations (Consolidation) Act 1992. The claim for a protective award succeeds.
- (2) The Tribunal makes a protective award in respect of the claimants who worked at the respondent's establishment at Furnace Lane, Nether Heyford, Northamptonshire NN7 3LB and who were dismissed as redundant on or after 22 December 2023 that the employer pay remuneration for the protected period which begins on 22 December 2023 and is for a period of 90 days. The Recoupment Regulations apply.
- (3) The First Respondent is in administration. The Insolvency Act 1986 provides that legal proceedings cannot be instituted or continued against the company without the consent of the Administrator or the permission of the court. Consent having been obtained for the claim for a protective award only, the claimants other claims are stayed.
- (4) An Employment Judge will consider the stayed claims in 6 months. The claimants will then be asked whether they have applied to the Administrator or to the court and, if so, with what result. If no such application has been made (or if it has been refused), the Judge may then ask you to give reasons why these claims should not be struck out because they are not being actively pursued.

REASONS

1. The claimants were employed at the same establishment at Furnace Lane, Nether Heyford, Northamptonshire NN7 3LB (“the establishment”) and were made redundant on or after 22 December 2023.
2. There were no elected employee representatives or recognised trade union at the establishment.
3. 20 or more employees at the establishment were made redundant or placed at risk of redundancy, on or within 90 days of 22 December 2023.
4. The claimants were dismissed during this period without any consultation having taken place.
5. The last of the dismissals occurred on 22 December 2023, so all the claims are likely to have been presented within the time limit contained in section 189(5)(b) of the Trade Union & Labour Relations (Consolidation) Act 1992.
6. The first respondent, which is in administration, has not filed a response but its administrators have given their consent to the claim for a protective award proceeding. The second respondent has filed a response to assist the Tribunal only and has no direct knowledge of events. In these circumstances it would be disproportionate to convene a hearing.
7. There is no reason to depart from the principle that protective awards are punitive and should be for the maximum period unless there are circumstances making it just not to do so.

The first respondent’s administrators have not granted the necessary consent to any other of the claimants’ claims proceedings and these are therefore stayed on the terms set out in the judgment.

Regional Employment Judge Foxwell

Date: __26 September 2024__

JUDGMENT SENT TO THE PARTIES ON

.....09 October 2024

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FOR THE TRIBUNAL OFFICE

Multiple Schedule

**Multiple: 3301448 - W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
(In Administration)**

Case Number	Case Name
3303308/2024	Mr Srinath Albaradura -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303309/2024	Mr Alexander Ballard -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303313/2024	Mr Lee Brooker -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303315/2024	Mr Ian Brown -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303316/2024	Mr Andrew Carpenter -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303318/2024	Mr Michael Cooper -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303319/2024	Mr Craig Dabbs -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303320/2024	Mr Jakub Domagala -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303321/2024	Mr Ace Dzialoszynski -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303322/2024	Mr Corin Engdahl -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303324/2024	Mr James Gilham -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303330/2024	Mr Lawrence Kosta -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303333/2024	Mr Philip Naylor -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303336/2024	Mr Benjamin Peters -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303338/2024	Mr Neil Ralston -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303339/2024	Mr Thomas Richardson -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303340/2024	Mr Stephen Spencer -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303341/2024	Ms Kamila Szewczyk -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303343/2024	Mr Lukasz Tomanek -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303346/2024	Mr Lee Wallbanks -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303347/2024	Miss Jody Ward -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED
3303348/2024	Mr Neil Willshire -v- W.H. BARLEY (TRANSPORT AND STORAGE) LIMITED