



EMPLOYMENT TRIBUNALS

Claimant: Mr MMO Omair
Respondent: A C Plc (in administration)
Interested Party: The Secretary of State for Business and Trade
Heard at: Watford Employment Tribunal (In Public; By Video)
On: **16 January 2025**
Before: Employment Judge Quill (Sitting Alone)

Appearances

For the Claimant: In Person
For the respondent: No appearance or representation
Secretary of State: Written Submissions only

JUDGMENT

1. The claim seeking a protective award under section 189 Trade Union and Labour Relations (Consolidation) Act 1992 is well-founded. The respondent failed in its duty to consult the claimant and his former colleagues under section 188 of that Act.
2. The group of employees in question is the employees at the Respondent's Head Office. There were more than 20 such employees and all were dismissed.
3. The respondent is ordered to pay to the claimant remuneration for the protected period of 90 days starting on 18 August 2023, the date the first dismissal took effect.
4. Information about the Recoupment Regulations is attached in the appendix. I accept the Claimant's account that he did not receive any benefits during the relevant period.
5. The respondent made an unauthorised deduction from wages for the period 1 August to 18 August 2023. The sum properly payable was £2218.18. None of that was paid, though the Claimant did receive £1,837.14 gross from

Secretary of State. The Respondent is ordered to pay the Claimant the balance, which is £382.04 gross.

6. The Claimant is entitled to damages for failure to give notice. He was entitled to one month's notice. He would have earned £2906.56 net during the notice period. The Respondent has paid nothing, but the Claimant received £466.28 net from Secretary of State. The Respondent is ordered to pay the Claimant the balance, which is £2440.28.
7. No additional damages for breach of contract in relation to contractual entitlement to holiday are awarded.
8. Under the Working Time Regulations 1998, the Claimant's accrued entitlement was to $230/365 \times 5.6$ weeks = 3.53 weeks.. He had taken 5 bank holidays plus 12 further days, so 17 days = 3.4 weeks, during 2023. So his entitlement was to a further 0.13 weeks. One weeks pay = £865.39 and 0.13 weeks = £112.50 gross. The Respondent is ordered to pay £112.50 to the Claimant for unused entitlement under the Working Time Regulations 1998.
9. There is no award for future loss or for injury to feelings.
10. The Recoupment Regulations do not apply to the awards made to the Claimant for unauthorised deduction from wages, damages for failure to give notice, or for breach of working time regulations..

Approved by:

Employment Judge Quill

Date: 16 January 2025

JUDGMENT SENT TO THE PARTIES ON
1 February 2025

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FOR THE TRIBUNAL OFFICE

Public access to employment tribunal decisions

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. If there are written reasons for the judgment, they are also published. Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording. You will be required to pay the charges authorised by any scheme in force unless provision of a transcript at

public expense has been approved.

If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge.

There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

ANNEX TO THE JUDGMENT (PROTECTIVE AWARDS)

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (a) the amount (less any tax or social security contributions which fall to be deducted by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR
- (b) (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the

employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or

- (ii) in the case of an employee entitled to an award of universal credit for any period (“the UC period”) which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or on account of universal credit for the UC period that would not have been paid if the person’s earned income for that period was the same as immediately before the period to which the prescribed element is attributable.

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.