



EMPLOYMENT TRIBUNALS

Claimant: Mr M Blight

Respondent: Surgo Construction Limited “In Administration”

Rule 95 party: Secretary of State for Business and Trade

JUDGMENT ON LIABILITY AND REMEDY

The Employment Tribunals Procedure Rules 2024 – Rule 22

The Judgment of the Employment Tribunal is as follows:

1. The claimant’s claim that the respondent failed to comply with the requirements of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) is well founded.
2. The Tribunal orders the respondent, by way of protective award under section 189 (3) of the 1992 Act, to pay a payment equivalent to remuneration for the period of 90 days beginning on 13 March 2024 to the claimant.
3. The Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996 apply to these awards. The protected period is the period of 90 days beginning on 13 March 2024.
4. The respondent is advised of the provisions of Regulation 6 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 or as soon as is reasonably practicable, the 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 the employee to whom the award relates;

- b. the date of termination of the employment of the employee.
5. The respondent will not be required to make any payment under the protective award 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 respondent.

REASONS

1. The respondent organisation provided construction services and its head office was based at Albany Court, Newcastle upon Tyne. The respondent employed approximately 46 employees.
2. The claimant submitted a claim for a protective award to the Employment Tribunal on 29 May 2024. The respondent entered into administration on 14 March 2024. A copy of the ET1 form was sent by the Tribunal to the administrator on 6 June 2024. The respondent failed to file a response and the administrator wrote to the Tribunal on 10 June 2024 stating that they did not intend to admit or defend any claim and gave consent for claims for protective awards to proceed.
3. The Secretary of State for Business and Trade was sent a copy of the ET1 as an interested party under Rule 96 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 and they forwarded their written submissions to the parties and the Tribunal on 14 October 2024, indicating that they did not propose to be represented in person at any hearing.
4. In March 2024 the respondent proposed to dismiss as redundant 20 or more employees at Albany Court, Monarch Road, Newcastle upon Tyne NE4 7YB, the total number of proposed redundancies being in the region of 46. The first dismissal took effect on 13 March 2024.
5. There was no proper warning or consultation undertaken with the recognised trade union or the claimant before 13 March 2024. No employee representatives had been elected or appointed for any such consultation within section 188A of the 1992 Act.
6. In the 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 13 March 2024.
7. As no response has been received by the Tribunal from the respondent, the above Judgment has been entered without a hearing on the basis of the information provided by the claimant and in accordance with Rule 21 of the Employment Tribunal Rules of Procedure 2013.

Employment Judge Arullendran

Date: 4 March 2025

Note: This has been a hearing on the papers which has not objected to by the parties. A face to face hearing was not held because it was not practicable, no-one requested the same and all the issues could be determined on the papers.

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