



EMPLOYMENT TRIBUNALS

Claimant: Mark Higgins

Respondent: ARJ Construction Limited (In creditors voluntary liquidation)

Heard at: Bury St Edmunds (by video)

On: 13 July 2026

Before: Employment Judge Graham

Representation

Claimant: Self representing

Respondent: No attendance

JUDGMENT was sent to the parties on **17 August 2026** and full reasons were requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

FULL REASONS

Introduction

1. By way of ET1 Claim Form dated 10 July 2024 the Claimant sought to complain of a failure to consult 20 or more employees during the redundancy process at which time the Respondent entered administration. The Claimant indicated he was seeking a protective award.
2. An ET3 Response was filed on 9 August 2024 by the Administrators which confirmed they consented to ending the lifting of the statutory moratorium on Employment Tribunal claims against the Respondent in respect of a protective award. The ET3 disputed the Claimant's entitlement to a statutory redundancy payment given he had less than two years' continuous service.
3. The Claimant attended this hearing, the Administrators did not, however it is customary for administrators not to do so in cases such as this.

Law

4. The Trade Union and Labour Relations (Consolidation) Act 1992 provides:

“188 Duty of employer to consult representatives.

(A1) Subsection (1) applies where an employer is proposing to dismiss as redundant within a period of 90 days or less—

(a) at least the threshold number of employees (see section 195A), or

(b) 20 or more employees at one establishment.

(1) Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals

(1A) The consultation shall begin in good time and in any event—

(a) where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1), at least 45 days, and

(b) otherwise, at least 30 days, before the first of the dismissals takes effect.”

5. The term establishment is not defined in the legislation, however it has been held to mean a unit to which the redundant workers are assigned to carry out their duties. It is not essential for the unit in question to have management which can independently affect collective redundancies.
6. Case law has also held that the term establishment is to be defined broadly; it may consist of a distinct entity, having a certain degree of permanence and stability, which is assigned to perform one or more given tasks, and which has a workforce, technical means and certain organisational structure allowing for the accomplishment of those tasks; it need not have any legal, economic, financial, administrative or technological autonomy in order for it be regarded as an establishment; and it is not essential for the unit in question to be endowed with a management that can independently effect collective redundancies in order for it to be regarded as an establishment.

Findings of fact

7. The Claimant's employment with the Respondent began on 2 April 2024 and it ended on 29 April 2024. The Claimant's role was that of Project Manager.
8. The Respondent operated as a construction contractor employing in excess of 110 direct employees at the relevant time. The workforce consisted of office based and centrally based staff remote workers; and site based staff working across multiple construction projects.
9. The Respondent operated from a single Head Office in Stevenage, which housed all central and support functions. Approximately half of the

workforce were site based. All such employees reported operationally and administratively to the Stevenage Head Office.

10. The Claimant's contract of employment and particulars showed who he reported to, and his duties involved with the position. It also stated that he could be moved around to suit the workload. Nowhere within the document does it state he is employed at a fixed remote site and contractually tied to that place of work.
11. The Construction Team (including the Claimant) operated on remote sites reporting to the Stevenage Office and could be moved around to suit the workload of the company; and its function was to deliver sites for the company's clients, on time and to budget.
12. The Construction Team had a permanent operational base at the Stevenage Head Office by way of hot desks, to which it was organisationally attached, and reported to the company directors. The team also had a remote site setup provided by the company, for when they were working away from Head Office. This applied to all the sites that were running at the time.
13. Team members were provided with desk space; landline telephones; access fobs and passes; IT and printing/scanning facilities; health and safety equipment and mobile phone.
14. Managers could have been asked to attend other sites at any time to help out or cover illness or holidays. Site attendance was undertaken on a temporary basis for the duration of the project, generally the timescales being under two years. No construction site acted as a permanent base; nor exercised organisational control; nor constituted an establishment.
15. The Stevenage Head Office housed senior management and all central functions; was the location of the Claimant's Line Manager; controlled work allocation, supervision and reporting; handled all HR, payroll, expenses and performance management; and remained the base between projects and site visits.
16. The Claimant remained fully integrated within the Stevenage Head Office through reporting lines, IT systems, access credentials, and attendance at meetings and training as required.
17. The Claimant maintained daily contact with Stevenage Head Office; reported to a Line Manager physically based at head office. All employment administration was centralised at Stevenage Head Office.
18. The Claimant was therefore assigned to the Stevenage Head Office at all material times.
19. On Monday, 29 April 2024, the Respondent entered administration without warning. On the same day all employees, including the Claimant, were

dismissed with immediate effect by email; no notice was given; and no consultation had taken place before dismissal. The dismissals affected well in excess of 20 employees and occurred on the same date.

20. The Respondent did not engage in any form of collective consultation; nor warn employees of a risk of redundancy; nor consult elected representatives or a recognised trade union; nor commence consultation at least 30 days before dismissal, or at all.

21. The first and only notification received by employees was a company-wide email sent on the morning of 29 April 2024, confirming the company's insolvency; and termination of employment with immediate effect.

22. At that time, the Claimant was temporarily assigned to a remote site in Hassocks and directly reported to the Stevenage Head Office notwithstanding multi-site working on different projects; other site visits and client meetings.

Conclusions and decisions

23. There was no recognised trade union or elected employee representatives at the establishment. 20 or more employees at the establishment were made redundant or placed at risk of redundancy, on or within 90 days of 29 April 2024.

24. The Claimant was dismissed during this period without any consultation having taken place.

25. The dismissal occurred on 29 April 2024, so the claim has been presented within the time limit contained in section 189(5)(b) of the Trade Union and Labour Relations (Consolidation) Act 1992.

26. 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.

27. I therefore make the maximum award in the Claimant's favour, and the award is for 90 days.

Approved by:

Employment Judge Graham

25 August 2026

SENT TO THE PARTIES ON
25 August 2026

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written full reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/