



EMPLOYMENT TRIBUNALS

Claimants: Mr R Cabrera and 65 others (see schedule)

Respondents: 1. AR Realisations 2016 Limited (in administration)
2. ARG Realisations 2016 Limited (in administration)

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – Rule 21

1. The claimants' complaints under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 of a failure by the respondents to comply with the requirements of section 188 of the 1992 Act are well founded.
2. The first respondent is ordered to pay to the claimants set out in part 1 of the schedule of claimants by way of protective award under section 189(3) of the 1992 Act remuneration for the period of 90 days beginning on 12 May 2016.
3. The second respondent is ordered to pay to the claimants set out in part 2 of the schedule of claimants by way of protective award under section 189(3) of the 1992 Act remuneration for the period of 90 days beginning on 12 May 2016.
4. The Recoupment Regulations apply to these awards.

**Case No: 2403175/2016 and others
(see schedule)**

5. The respondents are ordered jointly and severally to pay costs to the claimants of the tribunal issue fee paid in the sum of £1000.

Employment Judge Slater

Date: 28 February 2017

JUDGMENT SENT TO THE PARTIES ON

3 March 2017

AND ENTERED IN THE REGISTER

FOR THE TRIBUNAL OFFICE

Schedule of claimants

Part 1 – claimants employed by AR Realisations 2016 Limited

Case no.	Name of claimant
2403178/2016	Miss S Bendelow
2403179/2016	Mrs C Blanc-Delecour
2403181/2016	Mr P Brockett
2403183/2016	Miss S Burrows
2403186/2016	Mrs R Catchpole
2403191/2016	Mr P Edmunds
2403195/2016	Mrs J Gibson
2403202/2016	Miss C Inns
2403204/2016	Ms L Kay
2403209/2016	Mr N Lund
2403222/2016	Mr D Nunns
2403223/2016	Mr J Pinkney
2403232/2016	Ms K Smith
2403239/2016	Mrs H Woodhouse
2403240/2016	Mrs T Young

Part 2 – claimants employed by ARG Realisations Limited

Case no.	Name of claimant
2403175/2016	Mr R Cabrera
2403176/2016	Miss S Achour
2403177/2016	Miss J Acus
2403180/2016	Miss E Borgese
2403182/2016	Miss M Burns
2403184/2016	Mrs S Cain
2403185/2016	Mr D Callahan
2403187/2016	Mrs E Dale
2403188/2016	Miss L Doherty
2403189/2016	Mr K Dudhia
2403190/2016	Mr M Duffy
2403192/2016	Ms H Fathers
2403193/2016	Miss J Fenn
2403194/2016	Mr C Ford
2403196/2016	Miss R Giles
2403197/2016	Mr P Goodison
2403198/2016	Miss C Halliwell
2403199/2016	Mr R Hamilton
2403200/2016	Mr P Humphrey
2403201/2016	Miss A I'Anson
2403203/2016	Miss H Jones
2403205/2016	Mr M Kelenchy
2403206/2016	Miss A Latilo
2403207/2016	Mr G Lintott
2403208/2016	Miss L Lodhi
2403210/2016	Miss M Malin
2403211/2016	Miss L Mather
2403212/2016	Mr C Mathias
2403213/2016	Mr P McCluskey
2403214/2016	Mr C McColm
2403215/2016	Mrs T McWalter
2403216/2016	Mrs H Mears
2403217/2016	Miss C Mickleborough
2403218/2016	Mrs P Morgan
2403219/2016	Mrs R Murphy
2403220/2016	Mrs K Nash
2403221/2016	Mr S Nguyen
2403224/2016	Miss K Rashleigh
2403225/2016	Mr D Rebak
2403226/2016	Ms A Robertson
2403227/2016	Mr D Rose
2403228/2016	Miss A Rothwell
2403229/2016	Mr A Saeed

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(see schedule)**

2403230/2016	Miss H Seymour
2403231/2016	Mrs L Small
2403233/2016	Miss L Solomons
2403234/2016	Mrs A Sutherland
2403235/2016	Mr P Taylor
2403236/2016	Mr R Tewson
2403237/2016	Mr T Welbourne
2403238/2016	Miss M White

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**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance
and Income Support

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Regulation 5(2)(b), SI 2010 No 2429 Reg.5.

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:

- (i) the amount (less any tax or social security contributions which fall to be deducted therefrom by the employer) accrued due to the employee in respect of so

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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

- (ii) 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 protective period falling before the date described in (i) above.

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.