



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms L Morrison

**Respondents:** 1) Gameseek Ltd

2) Secretary of State for Business, Enterprise and Industrial Strategy

## JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

**The first respondent not having presented a response to the claims, and on the information before the Regional Employment Judge particularly in the documents bundle and witness statement of the claimant,**

**The judgment of the Tribunal is that:**

1) The claim is well-founded in that the first respondent failed to comply with its statutory collective consultation obligations under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 before proposed redundancy dismissals took effect at its establishment at Winsford, Cheshire on 3 May 2018 in respect of the whole workforce employed there.

2) Under Section 189(1)(d), (2), (3) and (4), the Tribunal makes a protective award in respect of the claimant and the first respondent is ordered to pay remuneration to her for a protected period of 90 days beginning on 3 May 2018.

3) The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

## REASONS

1. By a claim form presented on 5 June 2018 the claimant claimed a protective award in respect of breach of the collective consultation requirements. No response was presented to her claim by the first respondent. The Secretary of State was sent a copy of the claim form and provided his response on 4 September 2018, which was treated as his written representations, and he was joined as second respondent.

2. Whilst the adjourned hearing on 9 October 2018 was postponed for lack of judicial resource, on a full consideration of the file of proceedings it was possible to issue this Judgment under Rule 21 without a further hearing.

3. On the information provided, the Tribunal makes the following findings. The respondent carried on business employing about thirty employees at Winsford Industrial Estate, Winsford, Cheshire. There was no trade union recognised for collective bargaining, consultation or negotiation with the workforce.

4. In late April 2018, there were rumours of financial difficulty at the respondent's business which the management played down. However, on 3 May 2018, the claimant and the rest of the other employees were given redundancy notices telling them the company was technically insolvent, no further wages could be paid and their contracts of employment were being terminated with immediate effect. The company was put into creditors voluntary liquidation on about 17 May 2018.

5. There was no previous warning or notice given to or consultation with the workforce. No employee representatives had been elected or appointed for any such consultation. The dismissals of the whole workforce were put into effect at once.

6. In these circumstances, the first 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 3 May 2018.

7. The first respondent is advised of the provisions of Regulation 5 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 being promulgated or as soon as is reasonably practicable, the first 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 every employee to whom the award relates; and
- (b) the date of termination of the employment of each such employee.

7. The first respondent will not be required to make any payment under the protective awards made 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 first respondent.

Regional Employment Judge Parkin

Date: 15 October 2018

JUDGMENT SENT TO THE PARTIES ON  
29 October 2018

FOR THE TRIBUNAL OFFICE

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