



EMPLOYMENT TRIBUNALS

Claimant: Mr P Law and Others (see attached schedule)

Respondent: Maplin Electronics Limited (In Administration)

Heard at: Leeds

On: 11 January 2019

Before: Employment Judge JM Wade

Representation:

Claimants: no attendance

Respondent: no attendance

JUDGMENT

Rule 47

The claimants' claims are dismissed.

REASONS

1 These claims arise out of the insolvency and administration last year of the respondent, a well known electronics retailer, and no doubt the hardship to staff caused as a result. The first of the dismissals was in March 2018 and I have given consent Judgments for Protective Awards in relation to those who were dismissed at the head office and warehouse (where respectively 20 or more people were dismissed as redundant).

2 Eighteen of the claimants in the schedule were employed in stores ("the stores claimants"), where lesser numbers lost their jobs. Of the remainder, consent for judgment was sought from Mr Lewis and Mr Tunstill but was not forthcoming.

3 The administrator has not given consent for the stores claimants to proceed. On 10 October 2018 the administrator applied for the strike out of many of the remaining claims, setting out the legal basis and relying on the final Judgment in the "Woolworths" case (USDAW and another v WW Realisation 1 Ltd (in liquidation)). That case maintained the status quo as to the meaning of "where an employer is proposing to dismiss as redundant twenty or more employees **at one establishment...**", with the result that stores employees in the Woolworths case where less than 20 dismissals were proposed (at a store) were not entitled to a Protective Award.

Case No: 1303262/2018 and nineteen others (see attached schedule)

4 This apparent difference in entitlement to consultation, and its particular effect in the retail sector in an insolvency situation, is one with which, as illustrated by this case, creates an apparent uneven playing field for staff. The Tribunal cannot do other than commiserate with the stores claimants. However, it is a matter for Parliament, and not a basis for the Tribunal to do other than apply the law and its rules. On 3 October 2019 Mr Hayward provided information disagreeing, in effect, with the Administrator's approach, resulting in the exclusion of stores claimants from entitlement to a Protective Award. He did not attend today.

5 On 21 November 2018 this Tribunal (which has management of the claims in England and Wales) therefore gave notice of a preliminary hearing "to determine any issues in these cases"), served on the claimants at the email address notified as their preferred means of communication or, in one case, by post. One claimant only, Mr Richardson, on 7 January 2019, notified the Tribunal of his inability to attend this hearing, and was informed he could apply for a postponement, but would need to provide reasons why it was in the interests of justice to postpone.

6 Rule 47 permits me to dismiss claims if a party fails to attend or be represented at a hearing. Before doing so I must consider any information that may be available to me about the reason for the party's absence, after any enquiries that may be practicable.

7 In my judgment it is not in the interests of justice to ask of the clerk in this case to telephone 20 claimants to ascertain the reason for their absence, when the reasons are, in all likelihood, twofold. In the stores claimants cases, they have understood their prospects of success are little, and they have made a rational judgment about the worth of travelling for this hearing. In Mr Lewis' and Mr Tunstill's cases, the reasons for their absence today are the same as their failure to respond to any Tribunal correspondence: they do not pursue their claims.

8 I have checked each file to ensure that the email address which was provided (or in one case postal address), has been correctly transcribed and I am satisfied that the notice of hearing has been provided to the correct addresses. I also take into account that in most of the stores cases the Tribunal has heard nothing from the claimants since they were notified of the need for administrators' consent to proceed, and have since been informed that the same will not be forthcoming. In all these circumstances I dismiss the claims.

Employment Judge JM Wade

Dated: 11 January 2019

Case No: 1303262/2018 and nineteen others (see attached schedule)

Case Number	Claimants name
1303262/2018	Mr P Law
1303614/2018	Mr A Hayward
1303703/2018	Mr A Phelpotts
1303705/2018	Mr D March
1402144/2018	Mr D Lewis
1402840/2018	Mr P Castle
1403234/2018	Mr I Shearer
1600941/2018	Mr A Brown
1806899/2018	Mr S Tunstill
1811130/2018	Mr L Richardson
2205649/2018	Mr J Wright
2302230/2018	Mr D Hinchliffe
2302397/2018	Mr D Hall
2302807/2018	Mr D Anderson
2302809/2018	Mr A Cuss
2411661/2018	Mr J Murch
2411923/2018	Mr S Smallwood
2411929/2018	Mr D Askham
2413224/2018	Mr D Darwent
3307154/2018	Mr T Dworczyk