



EMPLOYMENT TRIBUNALS

Claimants:

Ms A Nyamugunduru and others
(schedule of claimants attached)

Respondents:

Warehouse Fashions Limited (in
administration) (1)
Hilco Capital Limited (2)

v

JUDGMENT

Employment Tribunals Rules of Procedure 2013 – rules 21 and 52

The claimants having withdrawn all their claims against the first respondent except their claims for a protective award under section 189(3) of the Trade Union and Labour Relations (Consolidation) Act 1992 ('the Act'), and the first respondent having stated that it does not contest the claims for a protective award, and the claimants having withdrawn all their claims against the second respondent, and on the information before the judge, the judgment of the tribunal is that:

1. The claimants' claims against the second respondent are dismissed on withdrawal.
2. The claimants' complaints against the first respondent of a failure to comply with the requirements of section 188 of the Act are well-founded.
3. The tribunal orders the first respondent by way of a protective award under section 189(3) of the Act to pay to each of the claimants listed in the schedule a payment equivalent to remuneration for the period of 90 days beginning on 15 April 2020.
4. The recoupment provisions apply to this award.
5. All other claims by the claimants against the first respondent are dismissed on withdrawal.

REASONS

1. The claimants were employed by the first respondent, a national British fashion retailer which went into administration on 15 April 2020. The

claimants brought employment tribunal claims which were stayed. In the ET3 and grounds of resistance presented on 27 September 2021, the administrators of the first respondent granted their consent for the claimants' claims against the first respondent for a protective award to proceed.

2. In an email dated 14 October 2021, the solicitors acting for the claimants confirmed the withdrawal of all of the claimants' claims against the second respondent and the withdrawal of all of the claimants' claims against the first respondent except for the claims for a protective award. All of the claimants' claims against the second respondent have been dismissed on withdrawal pursuant to rule 52 of the Employment Tribunals Rules of Procedure 2013. All of the claimants' claims against the first respondent except for the claims for a protective award have been dismissed on withdrawal pursuant to rule 52.
3. That leaves only the claims for a protective award. The solicitors acting for the administrators of the first respondent confirmed in an email dated 28 October 2021 that the first respondent does not contest the claimants' claims for a protective award of 90 days.
4. On consideration of the file of proceedings it is possible to issue judgment against the first respondent without a hearing in respect of the claim for protective awards, under rule 21 of the Employment Tribunals Rules of Procedure 2013.
5. The tribunal makes the following findings on the information provided, in respect of the claimants' claims for a protective award in respect of breaches of the collective consultation requirements under section 188 of the Act.
6. The first respondent proposed to make 91 redundancies at its Olivers Yard site. The first respondent did not fully inform and consult with the claimants in accordance with the provisions of section 188 of the Act. There was no proper warning or consultation with the claimants and no employee representatives were appointed for consultation as required under section 188A of the Act.
7. The claimants were dismissed by reason of redundancy. The first of the dismissals took place on 15 April 2020 and the last of the claimants was dismissed on 30 April 2020.
8. In the circumstances, the first respondent was in breach of the duty under section 188. The tribunal makes an award under section 189 in favour of the claimants for the maximum protected period of 90 days beginning with 15 April 2020.
9. The first respondent is advised of the provisions of the Employment Protection (Recoupment of Benefits) Regulations 1996. Further information is contained in the annex to this judgment.

Employment Judge Hawksworth

Date: 14 January 2022

Sent to the parties on: .19 January 2022

For the Tribunal Office

Public access to employment tribunal decisions:

All judgments and any written reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Schedule of claims:

2204211/2020 Ms A Nyamugunduru V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204212/2020 Ms C O'Hare V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204213/2020 Ms K Mason V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204214/2020 Mr C Chmiewlinski V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204215/2020 Ms M Livesey V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204216/2020 Ms H Soobhany V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204217/2020 Ms S Matharu-Thacker V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204218/2020 Ms C Croft-Njoku V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204219/2020 Ms L Moore V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204220/2020 Ms L Ray V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204221/2020 Ms H Smaller V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204222/2020 Ms S Cox V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204223/2020 Ms R Butterworth V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204224/2020 Ms V Blason V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204225/2020 Ms H Cradock V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204226/2020 Ms C Lyons V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204227/2020 Ms A Cleverley V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204228/2020 Ms B Keen V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204229/2020 Ms C Griffiths V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204230/2020 Ms K Brady V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204231/2020 Ms J Slamon V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204232/2020 Ms L Burns V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204233/2020 Ms C Withers V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204234/2020 Ms J Reid V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204235/2020 Ms R Lawton V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204236/2020 Ms K Hale V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204237/2020 Ms C Woodgates V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204238/2020 Ms B Lee V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204239/2020 Ms L Milton V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited
2204240/2020 Ms K Irwin V (1) Warehouse Fashions Limited (in Administration) & (2) Hilco Capital Limited