

Case Nos. 2403547/2017, 2403548/2017
2403581/2017, 2403639/2017
2403642/2017, 2403738/2017
2403849/2017, 2403910/2017
2404056/2017, 2404050/2017
2404151/2017



EMPLOYMENT TRIBUNALS

Claimants: Mrs M McKeown
Ms L Woods
Mr G S Delaney
Ms T Challoner
Ms L Challoner
Mrs T Collins
Ms P Jenkinson
Mrs J Brown
Mrs L G Bradley
Mr C Ashcroft
Ms J McMillan

Respondents: 1. Rapid Discount Outlet Limited (in Administration)
2. The Secretary of State for Business, Energy and Industrial Strategy

HELD AT: Liverpool **ON:** 3 January 2018

BEFORE: Employment Judge Robinson
Mr G Pennie
Ms A Ramsden

REPRESENTATION:

Claimants: In person
Respondents: Not in attendance

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The claims in relation to protective awards for all of the 11 claimants set out above are well-founded.
2. It is appropriate to make protective awards and given the seriousness of the first respondent's default in observing its statutory obligation to make that award for the maximum period of 90 days.

3. The employees covered by the protective award are those individual claimants set out above at the heading of this judgment.

4. The claimants are eligible to bring the claims under the provisions of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 on the basis that no recognised trade union or elected employee representatives were able to negotiate or represent the claimants. All the claimants worked at the establishment and the first respondent proposed to dismiss either 49 or 50 employees at that establishment within a period of 90 days or less and did not consult any of the claimants.

5. The duration of the award shall be for 90 days from each individual's date of redundancy.

6. The individual claimants were dismissed for redundancy over a period extending from 10 May 2017 to 9 June 2017. The individual dates of redundancy are as follows.

7. M. McKeown - 30/5/17

8. L. Woods – 10/5/17

9. G..Delaney – 30/5/17

10. T. Chaloner – 27/5/17

11. L. Chaloner – 10/5/17

12. T. Collins – 9/6/17

13. P. Jenkinson – 10/5/17

14. J. Brown – 2/6/17

15. L. Bradley – 27/5/17

16. C. Ashcroft – 27/5/17

17. J. McMillan – 2/6/17

18. The recoupment provisions apply with regard to each claimant.

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19. No further order or direction need be made.

04-01-18

Employment Judge Robinson

JUDGMENT SENT TO THE PARTIES ON

12 January 2018

FOR THE TRIBUNAL OFFICE

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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2404151/2017**

Claimant: Mrs M McKeown & Others

**Respondents: 1) Rapid Discount Outlet Limited (in Administration)
2) The Secretary Of State For Business, Energy & Industrial
Strategy**

**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 the refrom by the employer) accrued due to the employee in respect

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of so 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.