



EMPLOYMENT TRIBUNALS

Claimant: Community Union & Others
Respondent: Clarity- Employment for Blind People (In Administration)

Heard at: East London Hearing Centre

On: 4 February 2021

Before: Employment Judge Burgher
Members: Mrs J Land
Mr D Ross

Appearances

For the Claimant: Mr G Williams (Legal Officer)
For the Respondent: Did not attend

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was A by Cloud Video Platform. A face to face hearing was not held because the relevant matters could be determined in a remote hearing.

JUDGMENT

1 The Secretary of State for Business, Energy & Industrial Strategy is dismissed as a respondent to the proceedings. The Claimants accept that he has no responsibility to pay any appropriate compensation pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE Regulations').

2 The Respondent's administrators, FRP, consented to the continuation of the litigation by letter dated 8 April 2020.

3 There was a relevant transfer pursuant to regulation 3 of the TUPE regulations from the Respondent to Clarity Products Limited on 31 January 2020.

4 Community Union was the appropriate representative for the purposes of Regulation 13(2) of the TUPE Regulations.

5 The Respondent failed to comply with its duty to inform and consult with the Community Union under Regulation 13 of the TUPE Regulations. The Claimant's claim that the Respondent failed to inform and consult is therefore well founded.

6 The Tribunal exercises its discretion to order the Respondent to pay appropriate compensation for failing to inform and consult in respect of all employees employed by the Respondent on 31 January 2020 ("Affected Employees").

7 The failure to inform and consult was serious and there has been no reason advanced by the Respondent to seek to mitigate the 13 week pay period for the Affected Employees, as set out in Regulation 16(3) TUPE Regulations. The Respondent is therefore ordered to pay Affected Employees 13 weeks pay as the appropriate compensation pursuant to Regulation 13(7) TUPE Regulations.

Employment Judge Burgher

5 February 2021