

THE INDUSTRIAL TRIBUNALS

CASE REFS: 815/20
1838/20

CLAIMANTS: British Air Line Pilots' Association (BALPA)
Unite the Union

RESPONDENT: Thomas Cook Airlines Limited (In liquidation)

JUDGMENT BY CONSENT

CONSTITUTION OF TRIBUNAL

Employment Judge (sitting alone): Employment Judge Hamill

APPEARANCES:

The claimants were represented by Mr Derek Kane, Solicitor of Thompsons NI Solicitors.

The respondent was represented by Liz Parkin of Ashurst LLP

In exercise of the discretion under Regulation 59 of Schedule 1 to the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020 it is ordered as follows:

1. In accordance with section 217 (2) of The Employment Rights (Northern Ireland) Order 1996 ("the 1996 Order") the Industrial Tribunal makes a declaration that the Respondent failed to comply with the requirements of article 216 insofar as there was no proper warning or notice given and no consultation took place.
2. The Respondent went into compulsory liquidation on 23 September 2019. The Claimants and other employees covered by the collective bargaining arrangements were employed at the Respondent's site in Belfast. The Claimants' employment was terminated on 23 September 2019 with immediate effect. Further employees who fall within the collective bargaining arrangements were made redundant after the 23 September 2019.

3. The British Airline Pilots Association (BALPA) was the recognised trade union for collective bargaining, consultation and negotiation purposes for the pilots employed by Thomas Cook Airlines Limited at Belfast International Airport pursuant to a Recognition and Facilities Agreement between Thomas Cook Airlines Limited and BALPA dated August 2008, appended hereto.
4. UNITE the Union was the recognised trade union for collective bargaining, consultation and negotiation for the grades C1/C3, Temporary Cabin Managers, Cabin Crew and Cabin Managers workforce at Belfast International Airport pursuant to a Recognition Agreement], appended hereto. Together the 'Recognition Agreements'.
5. By order of the High Court dated 13 December 2019 permission was granted for the claims to proceed (copy order attached). On 14 February 2020 the Official Receiver confirmed the Respondent would not be contesting the protective award claims. The Claimants to the present matter (case reference number: 815/20 IT) are all those pilots listed in Schedule 1 and all those grades C1/C3, Temporary Cabin Managers, Cabin Crew and Cabin Managers listed in Schedule 2 (case reference number: 1838/20)
6. By consent of the relevant parties, the Industrial Tribunal orders a protective award of 90 days' pay in respect of all pilots and cabin crew falling within the respective recognised bargaining units as described above and in the Recognition Agreements attached for the period of 90 days beginning on 23 September 2019.
7. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations (Northern Ireland) 1996 (the 1996 Regulations) apply to these awards. Regulation 6 of the 1996 Regulations provides as follows:

"Duties of the employer to give information about protective awards

- 6.— (1) Where an industrial tribunal makes a protective award under Article 217 against an employer, the employer shall give to the Department 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 (or proposed termination) of the employment of each such employee.
- (2) Subject to paragraph (3), the employer shall comply with paragraph (1) within the period of 10 days commencing on the day on which the industrial tribunal at the hearing announces to the parties the effect of a decision to make a protective award or (in the case where no such announcement is made) on the day on which the relevant decision is sent to the parties.
- (3) Where, in any case, it is not reasonably practicable for the employer to comply with paragraph (1) within the period applicable under

paragraph (2) he shall comply as soon as reasonably practicable after the expiration of that period.”

8. Subject to the normal categories of preferential debts set out in Schedule 6 of the Insolvency Act 1986, any payments made by the Respondent (rather than the Secretary of State) pursuant to this Judgment will be paid as an unsecured dividend.
9. There should be no order as to costs.

Employment Judge:

Date: 29 March 2022

This judgment was entered in the register and issued to the parties on:

SCHEDULE 1

**IN THE OFFICE OF THE INDUSTRIAL TRIBUNALS
AND THE FAIR EMPLOYMENT TRIBUNAL**

CLAIM NUMBER: Case Ref No's: 815/20

BETWEEN:

BRITISH AIR LINE PILOT'S ASSOCIATION

Claimant

-and-

THOMAS COOK AIRLINES LIMITED (IN LIQUIDATION)

Respondent

SCHEDULE 1 OF JUDGMENT BY CONSENT

No	Forename	Surname	Base
1.	Peter	Adair	Belfast International Airport
2.	Samuel	Law	Belfast International Airport
3.	Bruce	Axten	Belfast International Airport
4.	Steven	Weatherup	Belfast International Airport
5.	Brendan	Nolan	Belfast International Airport
6.	Samir	Akbar	Belfast International Airport
7.	Neil	Logan	Belfast International Airport
8.	Martin	Magee	Belfast International Airport

SCHEDULE 2

IN THE OFFICE OF THE INDUSTRIAL TRIBUNALS

AND THE FAIR EMPLOYMENT TRIBUNAL

CLAIM NUMBER: Case Ref No: 1838/20

BETWEEN:

UNITE THE UNION

Claimant

-and-

THOMAS COOK AIRLINES LIMITED (IN LIQUIDATION)

Respondent

SCHEDULE 2 OF JUDGMENT BY CONSENT

No.	Forename	Surname	Base
1.	Nicola	Allison	Belfast International Airport
2.	Jennifer	Annett	Belfast International Airport
3.	Rachel	Auld	Belfast International Airport
4.	Kerrie	Barr	Belfast International Airport
5.	Barry	Burke	Belfast International Airport
6.	Marlene	Byatt	Belfast International Airport
7.	David	Campbell	Belfast International Airport
8.	Alexandra	Clarke	Belfast International Airport
9.	Danielle	Copeland	Belfast International Airport
10.	Leanne	Courtney	Belfast International Airport
11.	Lisa	Dickson	Belfast International Airport
12.	Tanya	Donlan	Belfast International Airport
13.	Jordan	Duffy	Belfast International Airport
14.	David	Emery	Belfast International Airport
15.	Michelle	Foy	Belfast International Airport
16.	Keith	Given	Belfast International Airport
17.	Louise	Gordon	Belfast International Airport
18.	Yvonne	Graffin	Belfast International Airport
19.	Lynsey	Graham	Belfast International Airport
20.	Jodi	Grimison	Belfast International Airport
21.	Janet	Haskins	Belfast International Airport
22.	Tara	Hughes	Belfast International Airport
23.	Claire	Hunt	Belfast International Airport
24.	Kelly	Johnston	Belfast International Airport
25.	Jennifer	Lyttle	Belfast International Airport
26.	Seanna	McCann	Belfast International Airport
27.	Gillian	McCormick	Belfast International Airport
28.	Rachel	McDonnell	Belfast International Airport

29.	Janice	McLaughlin	Belfast International Airport
30.	Cathy	McPeake	Belfast International Airport
31.	Moyra	Morgan	Belfast International Airport
32.	Victoria	Noble	Belfast International Airport
33.	Lisa	Patton	Belfast International Airport
34.	Anne	Pollock	Belfast International Airport
35.	Brian	Quinn	Belfast International Airport
36.	Carla	Rafferty	Belfast International Airport
37.	Samuel	Redmond	Belfast International Airport
38.	Chloe	Rodgers	Belfast International Airport
39.	Margretta	Shaw	Belfast International Airport
40.	Matthew	Steele	Belfast International Airport
41.	Claire	Telford	Belfast International Airport
42.	Janet	Thomas	Belfast International Airport
43.	Evan	Waring	Belfast International Airport
44.	Donna	Webb	Belfast International Airport