

Schlecker worker wins court case against dismissal

Philipp Frisch, Christoph Dreier
11 July 2012

The first of 4,500 court cases lodged by former employees of the insolvent drugstore chain Schlecker resulted in a verdict in favour of the plaintiff. The Labour Court in Heilbronn judged in favour of a former Schlecker worker.

The female employee from Baden-Württemberg received her notice to quit at the end of March and, like many of her colleagues, appealed against the decision on the grounds of unfair treatment. She was one of many Schlecker workers who was picked out for sacking in a process that ended up with all the remaining 12,000 employees losing their jobs.

According to the insolvency administrator, Arndt Geiwitz, the initial selection of workers to be fired was drawn up with the full support of the Verdi trade union and its works councils as part of a so-called social plan. In its judgment of June 21, the Labour Court in Heilbronn declared that the company had been unable to adequately justify its selection process, had made serious errors in its execution and withheld information about its plans.

The plaintiff, a branch manager, was able to demonstrate that Schlecker had shown preferable treatment to one of her colleagues, although based on the criteria of “social plan” the colleague had less entitlement to continued employment. Therefore, the dismissal was “ineffective and the employment relationship continues to exist,” the court spokesman concluded.

The decision meant that the plaintiff was therefore entitled to the payment of her salary outstanding since the end of March. Schlecker has refused to pay her

wages and had proposed a miserly settlement of €500, in order to discourage the worker from undertaking a lawsuit.

The spokesman for the Labour Court noted that the judgment could act as a precedent for other courts dealing with the remaining legal cases. It is quite clear that the case tried in Heilbronn, which uncovered the anti-social character of the “social plan” worked out with the collaboration of the trade union, is not the only one of its kind.

The judgment reveals the destructive role played by the Verdi trade union and the company works council in the closing down of Schlecker. There are strong indications that the union was fully informed about the management’s plans and was active for months, if not years, in preparing the bankruptcy behind the backs of employees.

In the course of the liquidation of Schlecker over a six-month period, the union sided completely with management and the company’s creditors and did everything it could to ensure that employees’ claims against the company were kept to a minimum.

Following the first round of 12,000 layoffs in March of this year, Verdi’s biggest concern was to prevent legal cases being launched against the company. Together with the insolvency administrator, the union argued that lawsuits on the part of workers would discourage alternative interested parties from investing in the company.

Firstly, the union sought to set up a transfer company to facilitate the sacking of workers who would receive a

percentage of their pay for six months before officially being declared unemployed. By agreeing to accept such a transfer, workers were expected to sign away all their rights to undertake legal action against dismissal.

Although the transfer company had not been finalised and the concrete conditions for its function remained completely open, the union put pressure on employees to sign the relevant consent forms.

Following the collapse of the plans to form a transfer company, Verdi changed its strategy and called on workers to refrain from taking any action. “I do not see an awful lot of sense in dismissal complaints, especially in large numbers”, declared Verdi negotiator Bernard Franke. “If a few thousand seek to sue then the jobs will be lost, and there is nothing else on offer on the jobs markets”.

Nearly 7,000 employees followed the advice of the union and as a result have lost any chance to take legal action against their layoffs. The wages and redundancy payments to which they were entitled will now be assessed as proceeds of the bankrupt company and divided amongst the creditors.

Not only did Verdi ensure that a maximum number of workers refrain from action, it was also active in organising the layoffs. Representatives of the insolvency administration expressed their gratitude to the union during the court process and demonstrated the close cooperation with Verdi.

Liquidator Geiwitz said, “The final selection was made in conjunction with the works council.” Other former Schlecker workers who complained against their dismissal told the WSWS that the works council sent to the liquidator a list of those to be sacked, which was then “revised”. The final decision on who was to be dismissed rested, therefore, with the works council.

After the union and works council had organised the first round of redundancies and ensured that a minimum of workers would appeal against their sacking, the creditors’ committee announced that the entire company was to be dissolved and the remaining 13,000 jobs were wiped out.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact