



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs S A White

**Respondent:** J Chippendale Limited

**HELD AT:** Manchester

**ON:** 25<sup>th</sup> April 2017

**BEFORE:** Employment Judge Howard

## REPRESENTATION:

**Claimant:** Mr J Searle, counsel

**Respondent:** Ms A Del Priore, counsel

## JUDGMENT

The judgment of the Tribunal is that:

The respondent's application for costs succeeds. The claimant is ordered to pay the respondent's costs incurred in these proceedings in the sum of £9,500.00

## REASONS

1. The Employment Judge heard evidence from the claimant and heard submissions from the parties based upon the respondent's written application for costs and the claimant's written reply. The parties referred to documents contained within an agreed bundle for the costs hearing.
2. The Employment Judge found that the claim had no reasonable prospects of success. From the outset of the proceedings, it should have been apparent to her that her claim had no reasonable prospect of success.
3. The Employment Judge took account of the fact that the claimant was a litigant in person and so did not expect the same degree of analysis of the merits of the claim from her as might be expected from a legally represented claimant. However, the Employment Judge also noted that the claimant was

in receipt of legal advice at the disciplinary stage and further it was apparent from the claimant's own correspondence that she had ready access to legal advice from the firm Gunner Cooke at which, as she explained, her cousin '*employed a team of 15 employment lawyers*', if she chose to utilise it.

4. The Employment Judge accepted and adopted the points made in support of the application at paragraphs 14 – 19 of the respondent's written application for costs; essentially the evidence that the claimant had committed an act of gross misconduct in photocopying/typing and printing an offensive and damaging letter against the company with the intention of distributing it to the other parties and that she had misled the company in relation to it was overwhelming and had been presented to the claimant during the disciplinary process. She was therefore fully informed of the weight of evidence against her before she embarked on legal proceedings, all of which was clearly laid out in the response to the claim form. The claimant could identify no substantial procedural defects in the investigatory and disciplinary process.
5. The claimant was put on notice by the respondent's representatives on two occasions that an application for costs would be made in the event that the claim did not succeed. The claimant discounted those warnings; as she explained to the Employment Judge, she did not think it was up to the respondent's solicitor to tell her that she had no case and she did not seek further legal advice upon the content of those letters.
6. Further, by her repeated requests for emails which were legally privileged, not relevant and/or did not exist and for blank pro forma 'template' letters, which were of no relevance to the proceedings; the claimant conducted the proceedings unreasonably. The Employment Judge accepted and endorsed the points made in the application for costs at paragraphs 20 – 32 of the respondent's written application for costs.
7. The claimant was clearly and repeatedly informed by the respondent's representatives that the documents requested were privileged, not relevant and/or didn't exist, yet she persisted in repeatedly requesting them, even renewing her application before the Tribunal following a refusal to grant her application for disclosure by the Employment Judge. Her conduct plainly incurred additional cost to the respondent in fielding her repeated and misconceived requests.
8. The Employment Judge was satisfied that the respondent had established grounds to make a costs order falling within regulations 76(1)(a) & (b), Schedule 1 Employment Tribunal's (Constitution & Rules of Procedure) Regulations 2013; having taken into consideration the claimant's ability to pay, the Employment Judge decided to do so.
9. Having heard the claimant's evidence as to means; the Employment Judge was satisfied that the claimant had sufficient equity in her home, sufficient earnings and sufficient net assets from two businesses of which she was a director to meet the costs award that she made.

10. Turning to the amount of costs sought; £18,169.38, the respondent was seeking a summary rather than a detailed assessment of costs. The schedule of costs provided lacked further detail as to what work was carried out, by whom and when. There was clearly scope for duplication given the variety of fee earners who had worked on the file; the rates charged were above county court rates and no rationale had been provided for the significant amount of time allocated to a partner in the firm which was in addition to work carried out by a solicitor.
11. Even taking into account the additional time and costs incurred by the claimant's unreasonable conduct of the proceedings; the Employment Judge considered that the total fees claimed in costs were disproportionate to the complexity and length of the proceedings; which was a two day unfair dismissal claim where the issues were factually and legally straightforward.
12. Taking account of all the information available to her, the Employment Judge considered that fees in the region of £9 – £10,000.00 was a proportionate, realistic and reasonable estimate of the costs incurred by the respondent in defending the claim and ordered the claimant to pay the respondent's costs in the sum of £9,500.00.

Employment Judge Howard

Date 25<sup>th</sup> April 2017

JUDGMENT AND REASONS  
SENT TO THE PARTIES ON  
28 April 2017

FOR THE TRIBUNAL OFFICE