



EMPLOYMENT TRIBUNALS

Claimant: Mrs C Pease

Respondent: A Buckler (Haulage) Ltd

Before:
Employment Judge JM Wade
IN CHAMBERS on 9 August 2017

JUDGMENT

The respondent's application for costs is dismissed

REASONS

1 The respondent made an application for costs on 22 June 2017 before the written reasons in this case had been provided. The grounds of that application were: "[] choosing to continue with the proceedings after 7 April was unreasonable in the light of the arguments the Respondent advanced in correspondence ..in respect of the merits of the parties respective cases and the Respondent's reasonable offers of settlement to try to avoid the occurrence of further costs."

2 The claimant's complaint of unfair constructive dismissal did not succeed. That decision was announced to the parties on 25 May 2017. Written reasons for that decision were sent to the parties on 29 June 2017.

3 On 18 July 2017 the claimant's counsel provided detailed written submissions resisting the application. By 24 July 2017 both parties had confirmed they were content for the application to be addressed without the need for a hearing.

4 Rule 76 (1) relevantly provides: "A Tribunal may make a costs order.., and shall consider whether to do so, where it considers that - (a) a party ..has acted ..otherwise unreasonablyin...the way that the proceedings (or part) have been conducted".

5 The criticism of the claimant in the conduct of the proceedings is that she

persisted with her claim after 7 April despite reasonable offers of settlement and well founded criticisms of her case, thereby preventing a costs saving which settlement clearly could have achieved.

6 This application can be shortly disposed relying upon the submissions of the claimant's counsel and the reasons for my Judgment on liability (see paragraphs 38 to 52 and in particular paragraph 42 concerning the extraordinary chain of events).

7 The facts were heavily disputed such that the Tribunal saw visual recordings of the red mist incident (see paragraphs 19 to 21). The claimant cannot be said to have acted unreasonably in pressing on to a hearing to have those facts determined. It is only with hindsight that she now may wish she had settled. Applying the law to such a disputed and extraordinary chain of events was very far from the exercise which would enable the Tribunal to find the claimant's conduct in pressing on unreasonable in these circumstances. The respondent was successful, partly, but only partly, for reasons it had identified in advance, which the written reasons make clear. The application is dismissed.

Employment Judge JM Wade

Date 9 August 2017

JUDGMENT SENT TO THE PARTIES ON

15 August 2017

G Palmer
FOR THE TRIBUNAL OFFICE