



EMPLOYMENT TRIBUNALS

Claimant: Mr D Goddard

Respondent: Alpha Electrical and Building Services Limited

HELD AT: Manchester

ON: 26 September 2017

BEFORE: Employment Judge Ross

REPRESENTATION:

Claimant: In person

Respondent: Mr C Nagel, Consultant

JUDGMENT having been sent to the parties on 29 September 2017 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. At the conclusion of the preliminary hearing which determined that the claimant's claim for unfair dismissal and his claim for unlawful deduction from wages were not presented within time the respondent made an application for costs. The respondent sought a preparation time order in the sum of £453.25.

2. The grounds for making a costs order under rule 75(1)(a) of the Employment Tribunals Rules of Procedure 2013 and a preparation time order under rule 75(2) are the same, namely:

- A party has acted vexatiously, abusively, disruptively or otherwise unreasonably in the bringing or conducting of proceedings (rule 76(1)(a)).
- The claim has no reasonable prospects of success (rule 76(1)(b)).

3. I reminded myself that the Tribunal has a discretionary power to make a costs order or preparation time order. I reminded myself that it is a two stage process. Firstly I must consider whether the grounds are made out; and secondly if they are whether I exercise my discretion to make the order.

4. I found the claimant, who was a litigant in person and an electrician, believed he had presented his claim for unfair dismissal and an unlawful deduction from wages within time. When he was asked to attend a preliminary hearing to deal with the issue of the out of time point he relied on evidence including his difficult personal circumstances, namely that he had a young child, his partner was expecting twins, he had been dismissed, he could not support his family, and this led to a breakdown of his relationship, the break up of his family and him moving to another address.

5. I am satisfied that neither of the grounds suggested in rule 76 have been made out.

6. However, in case I am wrong about that I turn to the second stage, which is to exercise my discretion on whether or not to make an order for costs. I remind myself that costs do not follow the event in the Employment Tribunal. An award of costs is still an exception rather than the rule (**Yerrakalva v Barnsley Metropolitan Borough Council [2012] ICR 420**). I took the claimant's means into account. He is a man of very limited means. He lost his job and was unemployed.

7. In these circumstances I decline to make an order of costs against the claimant.

Employment Judge Ross

Date 6 November 2017

REASONS SENT TO THE PARTIES ON

9 November 2017

FOR THE TRIBUNAL OFFICE