



# EMPLOYMENT TRIBUNALS

**Claimant:**  
Miss J Cudmore

v

**Respondent:**  
Dynasty Care Ltd

**Heard at:** Reading

**On:** 22 January 2018

**Before:** Employment Judge Gumbiti-Zimuto  
Members: Ms SP Hughes and Mr B Walter

## JUDGMENT ON AN APPLICATION FOR COSTS BY THE CLAIMANT

The claimant's application for costs is refused.

### REASONS

1. The claimant made an application for costs at the end of the hearing of this case. There was insufficient time for the Tribunal to consider the claimant's costs application so the matter was listed for the Tribunal's consideration today.
2. Rule 76(1) of the Employment Tribunals Rules of Procedure 2013 provides that the tribunal may make a costs order, and shall consider whether to do so "where it considers that- (a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted."
3. The claimant here case makes an application on the basis that there was a dispute about unpaid wages. Although it was ultimately agreed that the claimant succeeds in relation to a claim for unlawful deduction from wages in the sum of £189.00, that concession did not arise until late on in the proceedings. The original sum claimed by way of unlawful deduction from wages by the claimant was significantly larger than the sum of £189.00.
4. The claimant says that there was a failure on the part of the respondent to provide the documents allowing the claimant to properly assess the amount of the claim. The documentation necessary to quantify loss was not provided until late on in the proceedings and in some respect, was never provided at all. Once provided it was agreed that £189.00 was due to the claimant.

5. The respondent says that the claimant's claim for costs is misconceived. There is a failure to show that the respondent's conduct has been unreasonable. (The claimant says that the unreasonable conduct is not disclosing documents in a timely fashion or not disclosing them at all.) The respondent says that this complaint, about late provision of documents, was not made to the respondent until the costs application was being made. The point at which the application for costs was being made was after all the evidence in the case had been presented, the parties had made their submissions on liability and the claim for unpaid wages agreed. The respondent further contends that the claimant's case was based on figures that were wrong. The fact that the figures were wrong was conceded by the claimant's Counsel prior to the conclusion of the hearing. The respondent says that it is not for the respondent to tell the claimant they have their figures wrong when they bring the claim beyond responding to the claim. If a claim is to be pursued by the claimant, the claimant ought to substantiate his claim.
6. We have to consider whether there was unreasonable conduct on the part of the respondent in the way that they conducted the proceedings. There is no indication from the papers before the Tribunal that there was a failure on the part of the respondent to comply with the employment tribunal's orders or that any failure to comply with the employment tribunal's order was deliberate and or resulted in any loss being incurred by the claimant.
7. It appears to the Tribunal that if there was late disclosure of documents, this is something that in any event would have resulted in work being carried out by the claimant in order to ascertain the level of any claim that is made. That work would have to have been done at some point.
8. It is regrettable that that work was not done until late on and therefore no compromise in relation to the unpaid wages claim was possible earlier. However, in the absence of any other specific matters being relied on by the claimant, the Tribunal has not been able to ascertain that there are grounds to conclude that the conduct of the respondent has been vexatious, abusive, disruptive or unreasonable so as to warrant an order for costs being made in favour of the claimant.
9. The claimant's application for costs is therefore dismissed.

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Employment Judge Gumbiti-Zimuto

Date: 25 January 2018

Judgment and Reasons

Sent to the parties on: 15 February 2018

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For the Tribunal Office