



THE EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr G Apostolou

v

Windrush Car Storage Ltd

Heard at: London Central

On: 22 June 2018

Before: Employment Judge D A Pearl

Representation:

Claimant: In person

Respondent: Mr S Catherwood (Counsel)

JUDGMENT ON COSTS APPLICATION

The Judgment of the Tribunal is that:

The Claimant shall pay costs to the Respondent in the sum of £4,500.

REASONS

1 My decision was promulgated on 26 June and the Respondent made its written costs application on 20 July 2018. This was copied to the Claimant. He was told of his right to object. On 26 July the tribunal wrote to him about a separate matter (the striking out of remaining claims) and noted that he had not

written in response. There was no reply. On 7 September the tribunal wrote again to him to give a final opportunity to respond to the costs application by 20 September. There has been no response from the Claimant.

2 I therefore assume that the Claimant has no response that he wishes to make to the costs application.

3 The conclusion that the Claimant had no reasonable prospect of success in his claims is inescapable. In particular, on the issue of gross misconduct, the claim was, in effect, hopeless and the Claimant acted unreasonably in pursuing it, perhaps unwilling to face up to what he had really done. It is, however, unnecessary to speculate on his motive or state of mind, because at the hearing he gave me evidence that I roundly rejected. Indeed, the true position became as clear as it could be as the questioning of the Claimant proceeded.

4 The grounds set out in the letter of application are solid and correctly based. On 18 June the Respondent's solicitors sent the Claimant a 'costs warning' letter that drew attention to rule 76 and its terms and shortly suggested that the gross misconduct was clear.

5 The only question is whether I should exercise my discretion in circumstances where the threshold for a costs order has comfortably been crossed. Here, I have no basis, or evidence or any material that could justify not making such an order. Therefore, the remaining question is the amount of the order. The Respondent has seemingly spent £19,000 (excluding VAT) on legal fees, but limits its application to the sum of £4,500. This is a reasonable approach to take and I am prepared to make an order in that sum.

Employment Judge Pearl

Dated: 3 October 2018

Judgment and Reasons sent to the parties on:

3 October 2018

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For the Tribunal Office