



# EMPLOYMENT TRIBUNALS

**Claimant:**  
Mr K Farrell

v

**Respondent:**  
Docsinnovent Ltd

**Heard at:** Reading

**On:** 13 September 2018

**Before:** Employment Judge Gumbiti-Zimuto

## Appearances

**For the Claimant:** Mrs K Fudakowski (Counsel)

**For the Respondent:** Miss S Berry (Counsel)

## ADJOURNMENT OF COSTS APPLICATION

1. The hearing of the Respondent's application for costs is adjourned to **8 February 2019**.

## REASONS

1. The Claimant has served on the Respondent a bundle of documents and submissions responding to the Respondent's application for costs. The Claimant provided the bundle of documents to the Respondent at noon on 12 September 2018. The Claimant's submissions were served at 18.02 on 12 September 2018.
2. The cost hearing was originally listed to take place on the 1 June 2018. The parties were notified of this date in a notice sent to the parties on the 1 February 2018. That hearing notice included the following note:

“You may submit written representations for consideration at the hearing. If so they must be sent to the Tribunal and to all the other parties not less than 7 days before the hearing. You will have to chance to put forward oral arguments in any case.”
3. There were no other directions given relating to the provision of documents or exchange of submissions. The Claimant was aware of the grounds of the Respondent's costs application which were set out in a document sent to the Claimant and the Tribunal on 14 September 2017.

4. The 1 June 2018 was vacated because it had been listed in error on a date when I was not available to hear the case. The date for this hearing was notified to the parties on 19 July 2018.
5. Although the Claimant was aware of the application for costs for almost a year and had notice of the 13 September 2018 hearing for almost 8 weeks it was less than 24 hours before the hearing that the Claimant provided to the Respondent its reply to the costs application and the documents relied on.
6. The nature of the Claimant's response requires the Respondent to review its notes of the full merits hearing in order to answer the points raised by the Claimant. The Respondent requires time to do that. In the time since the Claimant served his documents and submissions on the Respondent it has not been possible for the Respondent to do that. The Respondent's Counsel has not had the opportunity to prepare a response to the contentions set out by the Claimant in the written submissions and seeks an opportunity to do so.
7. Having considered the Claimant's objections to the Respondent's application for a postponement, I decided that a postponement was in the interests of justice as there were factual disputes between the parties relating to this case which was heard by me between 27 and 31 March 2017. The case was heard 17 months ago, in respect of any matter that is not dealt with in the Judgment it will be necessary for the parties to assist me to recall what happened, I will also need to refer extensively to the notes I made at the hearing.
8. Having made the decision to grant the Respondent's application for an adjournment I made the following case management orders by consent.

## **CASE MANAGEMENT ORDERS**

### **Made pursuant to the Employment Tribunal Rules 2013**

1. The parties are to agree a joint bundle of documents for the costs hearing by **14 December 2018**.
2. The Respondent is to provide a written response to the Claimant's submissions on costs by **11 January 2019**.
3. The Claimant is to provide a witness statement as to his means (if so advised) and any further written submissions on the Respondent's costs application by **25 January 2019**.
4. Wasted Costs/Costs Applications
  - 4.1 Any wasted costs application made in respect of today's hearing is to be served on the Claimant's solicitors within 28 days of today's hearing.

- 4.2 Any application for costs in respect of today's hearing is to be notified to the Claimant and his solicitors within 28 days of today's hearing.
- 4.3 Any costs or wasted costs application is to be considered at the conclusion of the hearing on 8 February 2019.

**CONSEQUENCES OF NON-COMPLIANCE**

- 1. Failure to comply with an order for disclosure may result on summary conviction in a fine of up to £1,000 being imposed upon a person in default under s.7(4) of the Employment Tribunals Act 1996.
- 2. The tribunal may also make a further order (an "unless order") providing that unless it is complied with, the claim or, as the case may be, the response shall be struck out on the date of non-compliance without further consideration of the proceedings or the need to give notice under rule 19 or hold a pre-hearing review or a hearing.
- 3. An order may be varied or revoked upon application by a person affected by the order or by a judge on his/her own initiative.

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Employment Judge Gumbiti-Zimuto

Date: 27 September 2018

Sent to the parties on: .18 October 2018

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For the Tribunal Office