



EMPLOYMENT TRIBUNALS

Claimant: Miss N Sanders
Respondent: Natz Nailz Ltd
Dated: 8th March 2019
Before: Employment Judge A Frazer

JUDGMENT ON COSTS

1. The Respondent's application for a costs order against the Claimant is dismissed under Rule 77 of the Employment Tribunal Rules of Procedure.

REASONS

1. On 7th February 2019 the Tribunal gave judgment dismissing the Claimant's claims for notice pay, unpaid wages and holiday pay. Oral reasons were given at the hearing. The Respondent sought to apply for costs at the hearing but given that it was very late in the day, the Respondent's representative was informed that she could put any application in writing and the Claimant was informed that she would have the opportunity to respond.
2. By way of an email dated 20th February 2019 the Respondent applies for costs under Rule 77 on two grounds: firstly, under Rule 76(1)(a) that the Claimant acted vexatiously, abusively, disruptively or otherwise unreasonably in the bringing of the proceedings and in the manner in which the proceedings were conducted, and that secondly, under Rule 76(1)(b) that her claim had no reasonable prospects of success. The Claimant resisted the application by way of an email of the same date.
3. Having regard to Rule 76(1)(a) I do not consider that the bringing of the claim was vexatious or unreasonable. I find that the Claimant had a genuine grievance that she was owed money by the Respondent. There was a dispute as to whether she was an employee or whether in fact she was party to a commercial venture. This was not a straightforward question but was a matter that the Tribunal could only determine after

hearing evidence and submissions. It was a reasonably triable issue. As such I do not consider that it could be said that the claim had no reasonable prospects of success under Rule 76(1)(b).

4. The Respondent also brings the application on the basis that the Claimant acted disruptively during the proceedings and in communications with the Respondent prior to the hearing. The Claimant was not represented during the litigation. Having had regard to the emails and posts, I find that the Claimant's position, as stated in the emails and posts attached to the Respondent's application, is likely to have stemmed from a mistrust of the Respondent and a feeling of injustice in the context of an intractable conflict. I do not consider that her conduct was disruptive. The matter proceeded to a hearing. Disclosure took place. A bundle was prepared and witness statements were exchanged.
5. The Claimant did take issue with some elements of disclosure during the hearing and was at times unable to wait until her turn for questioning. I was however able to control the proceedings in spite of this. The disclosure issues were resolved during a short adjournment and I was satisfied that both parties were given a fair opportunity to put their respective cases. The case was determined within the day and did not go part heard.
6. The Respondent's application for costs is therefore dismissed.

Employment Judge A Frazer
Dated: 8 March 2019

SENT TO THE PARTIES ON
.....9 March 2019.....

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS