



RM

# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs C Sharpe

**Respondent:** Directa (UK) Ltd

## JUDGMENT

The Respondent's application for costs is refused.

## REASONS

1. I dismissed the Claimant's unfair dismissal claim in a judgment sent to the parties on 21 March 2019. On 17 April 2019 the Respondent applied for a costs order on the basis that the claim had no reasonable prospect of success and/or it was unreasonable for the Claimant to pursue her claim in spite of repeated warnings from the Respondent that it lacked merit. The Claimant opposed the application. I have determined it on the papers in accordance with Rules 76 and 77 of the Employment Tribunals Rules of Procedure.

2. I am not satisfied that either basis for making a costs order is made out. As is clear from the judgment, the Respondent accepted that the Claimant had not committed an act of gross misconduct. This was not a case of the Claimant's negligent action directly causing significant loss to the Respondent. The loss was caused primarily by the fraudsters, whose actions were inadvertently facilitated by the Claimant. I found that dismissal fell within the range of reasonable responses, but the Claimant made legitimate arguments to the contrary and I am not satisfied that the claim had no reasonable prospect of success on that issue. Nor was it unreasonable for the Claimant to pursue her claim. It is not unusual for a Respondent to argue in correspondence that a claim lacks merit. EJ Prichard had refused the Respondent's application for a deposit order. His comment that the Respondent's case looked strong did not amount to saying that the claim had no reasonable prospect of success. The Claimant was entitled to have her claim heard.

3. I do not understand the Respondent to be arguing for a costs order on the basis of vexatious conduct, but for the avoidance of doubt I am also not satisfied that the Claimant acted vexatiously.

4. As the grounds for making a costs order under Rule 76 are not made out, the application is refused.

Employment Judge **Ferguson**

21 May 2019