



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms A Brown

**Respondent:** Premium Care Limited t/a Woodside Hall Nursing Home

**On:** 25 June 2018

**Before:** Employment Judge John Crosfill

## JUDGMENT ON COSTS

1. The Claimant's application for a preparation time order is dismissed.

## REASONS

1. By an e-mail sent on 16 December 2017 the Claimant made an application for a preparation time order in respect of the time that she has spent preparing for the claim. I directed that the Claimant be asked whether it objected to such an order and if so give its reasons. I further asked whether the parties consented to the matter being dealt with without a hearing.
2. The Respondent responded on 1 March 2018. The Claimant provided a further response on 6 March 2018. Regrettably the file has only recently come to my attention. I apologise for the delay in providing this judgment.
3. An employment tribunal has a jurisdiction to make a preparation time order only where one of the conditions of rule 76(1) of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. If that threshold is not met then any application must be dismissed.
4. The Claimant's ET1 contained various claims many of which the Tribunal had

no jurisdiction to entertain. When the matter was before me I decided that the only matter I had jurisdiction to entertain was an allegation that there had, on occasions, been a shortfall in the wages that the Claimant was due. This was caused by a book keeper failing to recognise that time sheets were expressed in hours and minutes and not in decimals and a misunderstanding in relation to sick pay. These were simple human errors.

5. Once the proper extent of the dispute became clear the Respondent simply conceded the sum that the Claimant claimed. My order recorded that concession.
6. The Claimant had claimed several thousand pounds but was awarded just over £100 pounds. I am now told that the Respondent made an offer to settle the claim of £750 but that was refused. In the light of that the Respondent might be thought to be restrained in not making any costs application of its own.
7. Whilst the proper calculation of wages in this case was not objectively very difficult I note that the Claimant miscalculated the proper payment as did the Respondent. I did criticise the Respondent for making errors and they should not have occurred. However, to categorise its defence of the Claim as misconceived fails to pay sufficient regard to the fact that the claim that succeeded was buried in a large number of claims that did not.
8. I am unsurprised that given the nature of the claims levelled against the Respondent it sought to defend the claims. Indeed it succeeded in defeating most of the claims on the basis that the Tribunal lacked the jurisdiction to entertain them.
9. I do not consider that any errors made by the Respondent in completing its ET3 come close to the level of gravity that would permit me to make a preparation time order.
10. I do not consider it unreasonable for the Respondent to seek an adjournment when one of its witnesses was unwell. In any event the application was not granted. I am very surprised indeed to see that the Claimant says that she spent 4 hours dealing with this application by itself.
11. I consider that in the course of the hearing the Respondent behaved in a perfectly reasonable manner. It, through its solicitors, accepted that mathematical errors had been made and made appropriate concessions. It had technical defences available to it but did not take them.
12. I note the allegation that the Respondent did not permit the Claimant to enter its premises to deliver documentation. I do not know why that was but it is not a matter of any great gravity and did not materially affect the hearing.

13. In short, having considered all of the material that the Claimant has put before me she has failed to establish that the threshold conditions for making an award of costs have been met. I therefore dismiss the application.

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Employment Judge John Crosfill

Date 25 June 2018

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.