



EMPLOYMENT TRIBUNALS

Claimant
Ms M Heal

v

Respondents
Mr P Kite (1)
Mr W Peake (2)
Mr A R Munro (3)
Mr R Willings (4)
Harney Westwood and Riegels (5)

COSTS JUDGMENT AND REASONS

1. The Respondents' application for costs is dismissed.
2. The Respondents have indicated that they are seeking costs under Rules 76(1)(a) and/or (b). They have not stated their reasons for arguing that the claim had no reasonable prospect of success. Their attention is drawn in particular to paragraphs 39 and 46 of the PH Judgment. The identity of the Respondent could only be ascertained following careful consideration of all the available evidence, which had to be heard over more than one day including hearing from witnesses in the Cayman Islands. This was a matter that was central to the progression or otherwise of the case, leaving aside a number of other preliminary issues on which the Claimant also ultimately failed.
3. In addition, the Respondents are contending that the Claimant has acted vexatiously etc in the bringing of the proceedings or the way in which the proceedings have been conducted. Again, they have not set out any arguments in support of that contention. Costs do not normally follow the event in the Employment Tribunal and the Claimant was a litigant in person, albeit one who is legally qualified (though not in employment law). On the face of it, it would not have been possible to have dealt with the preliminary issues other than through an open preliminary hearing, and indeed EJ Segal at the PHCM on 16 January noted that on what he had seen, the Respondent's assertions at least in relation to the Claimant's employer appeared "speculative". I repeat what I have said in the previous paragraph in that connection.
4. There being, therefore, no grounds on the face of the matter before me and/or contained in the costs application itself to find either that the claim stood no

reasonable prospect under Rule 76(1)(b) or that the Claimant has acted in a way contrary to Rule 76(1)(a), the Respondent's costs application is dismissed.

5. The Claimant is arguing that the Respondents are not entitled to their costs because the Respondents to the claim did not file an ET3. I do not accept her distinction between the named Respondents incurring cost in their capacity as members of the global unlimited partnership as opposed to members of the London LLP. The first four individuals were named individually and they defended the claim as individuals. I had indicated for example that I would have been minded to strike out the claim against the Second Respondent in any event, because at the date the claim was lodged, he was not an equity partner. There was no jurisdiction against him at any stage. The question of the correct employer – the Fifth Respondent - was what occupied much of the evidence and argument at the PH before me. However, in light of my decision not to award costs in any event, I see no purpose in listing the matter for a further hearing to determine whether the Respondents, or any of them, have standing to make a costs application.

Employment Judge Norris

10 June 2019

Sent to the parties on:

12 June 2019

For the Tribunal: