



EMPLOYMENT TRIBUNALS

Claimant: Mr A Ziolo

Respondent: EH Booth & Co Ltd

COSTS JUDGMENT

Under rule 75(1)(a) the claimant is ordered to pay to the respondent the sum of **£1200.00** in respect of the costs that the respondent has incurred while legally represented in preparing for and attending the reconsideration hearing on 24 May 2019.

REASONS

1. On 22 February 2019 this claim was struck out for failure to comply with Tribunal orders and because it had not been actively pursued. The judgment was sent to the parties on 11 March 2019.

2. On 26 March 2019 the claimant's representative applied for reconsideration. The email said the claim was being pursued but that there had been an IT failure and an administrative error. The respondent opposed the application by email of 9 April 2019 and the parties were notified on 7 May 2019 that the reconsideration application was listed for hearing on 24 May 2019.

3. The respondent instructed counsel for that hearing. The claimant did not attend. Nor did his representative. There was no contact from him or his representative to explain that failure. I dismissed the reconsideration application and judgment to that effect was sent to the parties on 6 June 2019.

4. The judgment included the following paragraph:

“Any application for a costs order against the claimant or a wasted costs order against his representative must be made within 28 days of the date this judgment is sent to the parties in accordance with rule 77. If such an application is made, once the claimant and /or his representative has had an opportunity to respond it will be determined without a hearing unless either party requests one, or I consider a hearing to be required.”

5. The respondent made its application on 12 June 2019 seeking costs of £1000 plus VAT. It was copied to the claimant's representative. No response has been received from the claimant. There is no objection to this application before the Tribunal. No one has requested a hearing to determine it.

6. I am satisfied that the failure of the claimant's side to attend the hearing of his own application for reconsideration, without any explanation, is unreasonable conduct of that part of the proceedings under rule 76(1)(a) which has caused the respondent to incur costs that should not have been incurred. If the reconsideration application was not going to be pursued it should not have been made, or in the alternative it should have been withdrawn at the earliest opportunity.

7. I am not prepared to make a wasted costs order without more information about where the responsibility for that lies. However, the respondent has incurred legal costs of £1000 plus VAT in preparing for the reconsideration hearing and the fees of counsel for attending the hearing. I order the claimant to pay the respondent the sum of £1200.00 by way of a costs order.

Employment Judge Franey

3 July 2019

JUDGMENT SENT TO THE PARTIES ON

8 July 2019

FOR THE TRIBUNAL OFFICE

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.

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