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THE EMPLOYMENT TRIBUNALS

Claimant

Respondent

Ms C Howard

v

**Independent Police Complaints
Commission**

Heard at: London Central

On: 14 October 2109

Before: Employment Judge Wade

Members: Mr M Simon
Mr J Carroll

Representation:

Claimant: Not present or represented

Respondent: Mr D Panesar, Counsel

JUDGMENT

The judgment of the Tribunal is that:

1. The claimant is ordered to pay costs of £5,000 to the Respondent.
2. The claim against Equal Justice (the claimant's former solicitors) for a wasted costs order is withdrawn.

REASONS

1. The claimant did not attend. Her former solicitors emailed a letter from her doctor saying that she is suffering from "severe anxiety symptoms", there was no explicit application to postpone the hearing and the claimant had long made it clear that she did not wish to attend.

2. The tribunal considered whether to postpone but decided not to because:

2.1 The letter was not a diagnosis of a medical condition. That the claimant is anxious is not surprising because of course the current situation is stressful. The claimant was asked by the respondent to produce a full diagnosis and has not done so.

2.2 The stress will subside when the hearing is over.

2.3 The substantive hearing was in March 2018 and this hearing is long overdue.

2.4 The Tribunal offered reassurance and adjustments to the claimant to enable her to attend.

2.5 We were able to proceed in the claimant's absence as her financial position has been disclosed and she does not oppose a costs order on the basis that her claim was unreasonable and misconceived.

The decision to make a costs order

3. In his submissions Mr Panesar reminded the tribunal that the claimant had made the following allegations: "in my view, the IPCC, now the IOPC, is an institutionally racist employer operating a hostile environment for its BAME staff. It is therefore unfit to investigate claims of race discrimination against the police..... It is corrupt and not fit for purpose. It is neither independent nor impartial. It protects senior white police officers".

3.1 These allegations were not made out as we made clear in the conclusions to our judgment. We said:

"Regrettably we do not consider that the Claimant has demonstrated that her instincts are reliable as her judgment throughout was very poor....The more we unpack the facts, the clearer we are that none of the Respondent's behaviour gave rise to concern that there might have been discrimination, victimisation, harassment or protected disclosure detriment."

3.2 "The decision that the Claimant should not work on MPS cases was absolutely correct because it could have led to a perception of conflict. There was nothing inconsistent about the way the Respondent treated the conflict of interest issue. The Claimant's failure to disclose that there was a live claim against the MPS throughout her employment, with a schedule of loss of £229,000, is quite extraordinary and illustrates her poor judgment and understanding." Given what she knew at the time, the claimant knew that her central allegation was misconceived.

3.3 "It is a matter of great sadness to us, first, that Ms Howard and her witnesses came to this Tribunal with such a misguided view of her position. Some of her claims required evidence and fact finding but the first and last issues are so clearly not detriments that her lack of perspective is

astonishing; it gives rise to concern that winning a Tribunal claim may have a detrimental effect on future judgment. Second, we are sad to see the polarisation in the IPCC and that the claimant and her witnesses believe in a toxic atmosphere which, try as we might, we did not detect.

3.4 We should also mention the late withdrawal of certain aspects of the case. This demonstrated a cynical approach to the litigation.

4. As all agree, the claimant's behaviour in bringing and pursuing the claim was unreasonable and misconceived. A costs award is the exception not the rule but it is absolutely right to make an award in this exceptional situation and we have no hesitation in exercising our discretion to make an award in favour of the respondent.

5. The costs in this case were over £51,000 and the costs application and hearing alone cost £10,000. The respondent's solicitor provided a careful breakdown showing the costs which were readily attributable to the claimant's conduct.

6. The claimant is on universal credit with little or no savings (she had won compensation in a previous claim but that appears to have been spent). We do not have to take her means into account but have decided to do so. The claimant offered £3,500 and the respondent asked for £5,000. Given the claimant's age and earning power and the fact that this anxious period is now at an end, we agree that a fair figure is £5,000. Had the respondent asked for more we would not have agreed but they have asked for a fair figure taking into account her means and we award it.

Employment Judge Wade

Dated:...14 October 2019

Judgment and Reasons sent to the parties on:

16/10/2019

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For the Tribunal Office