

Case No: 2600989/2019
2601006/2019
2601007/2019
2601008/2019
2601009/2019
2601010/2019
2601011/2019



EMPLOYMENT TRIBUNALS

Claimants:
Mrs L Fearn
Ms W Gaunt
Mr S S Ayre
Mrs E A Ayre
Miss K Ayre
Mr R Ayre
Mr A Cord

Respondents:
(R1) South Derbyshire District Council
(R2) Novus Property Solutions Ltd
(R3) Hi-Spec Facilities Services Ltd

JUDGMENT ON APPLICATION FOR COSTS

The judgment of the Employment Tribunal Judge is as follows:-

1. By consent, each Claimant will pay a contribution to the 1st Respondent's costs in the sum of £2,562.00 by no later than 5 May 2020.
2. The hearing on 20 February 2020 is cancelled.

REASONS

Costs judgments

1. Under rule 75(1)(a) of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (“the Regulations”) the Claimants are, by consent, each ordered to pay to the first Respondent the sum of £2,562.00 in respect of the costs incurred by the first Respondent while legally represented, in preparing for and attending preliminary hearings on 9 July 2019 and 24 and 25 October 2019.

Reasons

2. On 25 October 2019, the claims were dismissed because the Claimants were neither employees or workers of the first Respondent within the meaning of section 230 Employment Rights Act 1996 and Regulation 2 of the Working Time Regulations 1998.

3. Prior to the Preliminary hearing before me, the same or substantially the same point had been decided in favour of the first Respondent in a claim brought against it on his own behalf by Mr Steven Ayre (the Claimant’s lay representative) in claim number 2601491/2017. An application by Mr Ayre for permission to appeal to the EAT was refused. There was no material distinction between Mr Ayre’s position and that of the Claimants, save that Mr Ayre alleged that he had made a protected disclosure and was thus entitled to rely on the wider definition of worker in section 43K of the Employment Rights Act 1996. His claim did not succeed.

4. Regardless, he continued to represent the seven Claimants in this case to pursue the same point.

5. At the close of the Preliminary Hearing, I made an order that the parties were at liberty to make an application for costs in writing by 15 November 2019. The order was not an unless order and, under rule 77 of the Regulations, an application for costs can be made at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

6. The first Respondent made an application for costs on 9 December 2019 claiming a total sum of £17,934. This included costs incurred for in preparing for and attending preliminary hearings on 9 July 2019 and on 24 and 25 October 2019.

7. Subsequently, Mr Ayre confirmed that the Claimants were not contesting the application and were each prepared to pay their share of the costs.

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Employment Judge Victoria Butler
Date: 7 February 2020

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

Notes

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.

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.