



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Sharlene Edey

**Respondent:** London Borough of Lambeth

**Heard at:** London South Employment Tribunal

**On:** 16 January 2020  
**Before:** Employment Judge Anne Martin  
Ms B Leverton  
Mr Taj

**Representation:**  
**Claimant:** Did not attend  
**Respondent:** Mr J Arnold – Counsel

## JUDGMENT

The unanimous judgment of the Tribunal is that the Respondent's application for costs is successful and the Claimant shall pay to the Respondent £20,000 towards its costs incurred in defending these claims.

## REASONS

1. this hearing was listed to consider the Respondent's application for costs following the judgment sent to the parties on 23 August 2019. On 15 January 2020 at 13:50 the Claimant sent an email to the Tribunal requesting a postponement saying "I am too unwell to travel and sit for that period of time due to my disability. At the time of the original cost hearing, I was in slightly better health and felt that I may be able to attend if the Respondent did not request, and was given a postponement. I hope this is taken into consideration.... If it is decided that this case is to go ahead on 16<sup>th</sup> of January 2020 in my absence, then I have attached evidence of my credit card debt demonstrating I cannot afford the costs as per my submissions. I would also request my submissions to the court in respect of the costs hearing should be considered in its entirety".
2. This application to postpone had not been dealt with by the time of the hearing as it was sent so late. The Tribunal considered the Claimant's application at the outset of the hearing and refused the application to postpone on the basis that the Claimant had provided no medical evidence to support her application, had given

no details of how her disability manifests itself at the present time which would make it not possible for her to attend. The Claimant was aware from the previous hearing that the Tribunal can and does make adjustments to take into account her medical conditions. The postponement of the initial hearing listed to hear the Respondent's application for costs, which is referred to in the Claimant's letter arose because Counsel for the Respondent was unable to attend the hearing due to a pre-existing engagement and the Tribunal had not sought to agree a date prior to listing it.

3. The Respondent submitted that this was not the first time that the Claimant had sought to avoid attending the Tribunal at the last minute and referred to the Claimant's outstanding claim against the Respondent which she, in relation to a hearing which was listed for November 2019, also, on the day before the hearing and with very little explanation, requested a postponement.
4. The Tribunal considered it was in the interests of justice that this cost application was heard promptly and, having made orders for the provision of submissions, and having received submissions from the Claimant considered it to be reasonable to proceed. The Claimant has asked the Tribunal to consider her submissions which the Tribunal has done.
5. The Claimant also made a request that her name be anonymised from the judgment which had been placed on the public record. The basis of the Claimant's application was that **"I am requesting this anonymisation application is heard based on my disability (evidence was of a personal nature), inaccurate issues pertaining to my disability, the inaccuracies and damaging contact comments about my character which are unfounded and issues pertaining to confidentiality"**.
6. The Respondent resisted the application for anonymisation and referred the Tribunal to rule 50 of the Employment Tribunal Rules of Procedure 2013 and section 12 of the Employment Tribunal Act. These sections provide that anonymisation can be made where evidence of a personal nature, which is medical or intimate, could be assumed to cause significant embarrassment if reported. The Respondent's submission was that the reference to fibromyalgia was not going to cause significant embarrassment to the Claimant and that there was no reference to any personal or intimate issues the Claimant has as a result of this medical condition. It was pointed out by the Respondent that in any event the judgment has been on the public record for some time already.
7. In relation to confidentiality, the Respondent submitted that confidentiality was dealt with by the Tribunal in that child D's name was anonymised and colleagues of the Claimants against whom she brought allegations were similarly anonymised. The names of the officers of the school (for example the Head Teacher and the Governors) however were not anonymised by the Tribunal.
8. The Tribunal accepts that the Claimant does not agree with its judgment, however this does not affect the findings which were based on the evidence heard. The Claimant brought proceedings against the Respondent into what is a public domain and there is no good reason why her name should be anonymised. The Claimant's application is therefore refused.

9. The Tribunal then considered the Respondent's application for costs. The Tribunal re-read the judgment promulgated on 23 August 2018, the application by the Respondent and the Claimants submissions in response. All documents were read carefully and in full with due regard being given to all points raised in those documents.
10. It is not proposed to set out in full the written submissions made by both parties. Of importance in the Tribunal's reasoning was a letter written by the Respondent to the Claimant on 17 September 2018. The covering email is headed "**Edey costs warning.**" This is a detailed letter which was sent after the first hearing date was abandoned and before the resumed hearing in February 2019.
11. The letter refers to rule 76 (1) of the employment Tribunal Rules of Procedure 2013 which provides that:

**A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that:**

  - (a) a party (or that party's representative) has acted vexatiously, abusively, destructively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted; or**
  - (b) any claim or response had no reasonable prospects of success.**
12. The Respondent's application is based on the Claimant's claim having no reasonable prospect of success and her having acted abusively and/or unreasonably in bringing her claim. The letter goes on to set out in some detail why the Respondent considers that the Claimant's claim has no reasonable prospect of success or has been conducted abusively and/or unreasonably.
13. The basis of a costs order was explained to the Claimant in this letter and the Respondent stated:

**"We estimate that our clients costs in this matter incurred were already in excess of £35,000 and we anticipate counsel's fees alone to be another £27,500. (sic)**

**Given the above we recommend you obtain independent legal advice in respect of the merits of your claim as soon as possible, if you have not already done so.**

**Despite the significant amount of costs already incurred in these proceedings, our client is prepared not to pursue a costs order against you if you withdraw all your claims within the next 14 days.**

**If you decide to continue with your claim we reserve the right to refer the Tribunal to this letter and any related correspondence in support of our client's application for costs".**
14. The Claimant did not withdraw her claims and the Claimant was heard over 15 days and judgment given dismissing all the Claimant's claims.
15. The basis of the Respondent's application for costs against the Claimant is that the Claimant behaved unreasonably, and in this letter set out that she had no prospect of success. The Respondent submitted that if one stands back and looks at the

claims, one can see the fantastic nature of them. The Respondent submitted that Claimant presented eight separate claims which were rambling, far-flung and inherently unlikely to succeed. For example, to assert that Mrs Adams, who works for a school educating highly disabled pupils, a majority of who come from black or minority ethnic backgrounds, was disablist and racist is extraordinary but this was the thrust of the Claimant's claims. It was pointed out that the Claimant made allegations against another 11 people and that some of the claims border on sheer fantasy.

16. It was submitted the Tribunal should consider the human costs of this claim when considering the question of unreasonableness. Very offensive claims are hanging over the heads of many staff for a long who are doing wonderful work for these children.
17. It was pointed out that in the eight claims there were 55 separate factual allegations which traversed many is different causes of actions. The list of issues which is appended to the judgment of the Tribunal is unnecessarily long and complicated. Counsel for the Respondent said in order to draft that list of issues he had to draw information from 11 separate documents, and it took him two days to do this. It was submitted that this was a factor showing that the bringing or conducting of the proceedings was unreasonable.
18. The Respondent referred to the credibility findings in the judgment particularly that the Claimant hid medical conditions and the Tribunal and issues about the location of the laptop. The Respondent particularly referred to paragraph 15 of its written submissions which set out a summary why it says the Claimant's behaviour tips over the threshold into unreasonable behaviour which would justify an award of costs. These points were directly addressed in the Claimant's submissions.
19. The Claimant's submissions are that she had not acted unreasonably by bringing the claims and that the claims **"do have a reasonable prospects of success"** notwithstanding that the Tribunal has dismissed them all. She submits that the costs incurred by the Respondent are unreasonable and that the Respondent instructed a senior barrister at enormous expense, which was unreasonable. She submitted this was excessive, unnecessary and a waste of public funds. She still maintained that the Respondent unfairly dismissed her and falsely accused her of numerous acts.
20. In relation to the claims, she accepts that she brought eight claims against the Respondent and submitted they were not extraordinary and that they were lengthy because of the ill treatment and unwanted conduct which spanned a period of years. She submitted that she should not be penalised for the Respondent's actions. She criticises the Employment Tribunal for delays in the proceedings suggesting that her case would not have been so extensive or complicated had it heard her claims promptly.
21. The Claimant maintained that what she complained of was accurate and the judgment was **"erroneous, contained many errors and is clearly biased"**.

22. The Claimant submitted that the Respondent offered her a “nominal” amount of money to withdraw her claims which she did not accept because of the terrible treatment and that she felt the Respondent should be held accountable for their actions and continued harassment. She said that there was a high threshold that had to be overcome for a costs order to be made. The Claimant submitted that she properly pursued the claim and that the Respondent’s application to strike out orders and deposit orders had been refused.
23. The Claimant referred to the final paragraph of the judgment where the Tribunal thanked the Claimant for the way that she presented her case and her willingness to work with the Respondent’s counsel. She submitted this was not in accordance with the person who tends to act unreasonably.
24. Finally, the Claimant submitted that her schedule of loss was reasonable. The final part of the Claimant’s submissions (paragraph 15) set out the Claimant’s view of what the Tribunal should have found but did not.
25. The Respondent accepted the case law which the Claimant referred to. The submissions in response to the Claimant submissions made by the Respondents were that the submissions are very critical and contained unsubstantiated and defensive allegations with no supported reasoning. The Respondent specifically referring to paragraph 8 of the Claimant submissions which referred to the judgment containing errors and being biased. It pointed out that this was just a bald statement with no reasoning behind it.
26. The Claimant had referred to the Respondent’s unwillingness to enter into judicial mediation and the Respondent submitted there was no obligation to mediate. The Respondent denied it offered “nominal money” to the Claimant and said that no such offer had been made. The only other made was that contained in the letter of 17 September 2018 referred to above (the costs warning letter) in which a drop hands settlement was suggested.
27. The Respondent submitted that the Claimant was attempting to revisit the findings of fact which the Tribunal made but that this did not assist the Claimant.
28. The Respondent submitted that the complexity of the claims required senior counsel to deal with it as it needed a deep understanding of the issues and the various causes of actions and experience to present the claim in the time allotted to it. The Respondent submitted that it was acting reasonably in limiting its costs application to £20,000 and the primary reason for that was the Tribunal’s jurisdiction. It was submitted that £20,000 for a three-week trial was very reasonable.
29. In considering the application for costs, the Tribunal looked at the costs incurred after the letter of 17 September 2018. The Claimant did not withdraw any of her claims (or any part of her claims) at that point and the Tribunal notes that the reasons that the Claimant did not succeed were very similar to the reasons set out in the costs warning letter.

30. That letter said that costs incurred already were £35,000 and that counsel's fees alone would account for a further £27,500. The total amount set out in the Respondent's schedule of costs was about £84,500. If one reduces that by the £35,000 already incurred by 17 September 2018 this leaves outstanding costs of around £49,500.
31. Even if the Tribunal had considered some aspects of the schedule to be unreasonable given the limitation of the application for costs to £20,000, which does not even cover counsel's fees, (which the Tribunal finds to be reasonable) £20,000 is not excessive. The Tribunal finds it costs should be awarded given the way in which the costs warning letter was written and its detailed reasoning as to why it was that the Claimant's claim would fail and comparing this to the final judgment. The Tribunal finds it unreasonable for the Claimant to have continued her claims after this time.
32. In any event the Tribunal finds that the Claimant acted unreasonably in the number of claims that she brought, in the manner and the number of factual issues which the Tribunal had to determine. This resulted in 12 witnesses being required to give evidence on behalf of the Respondent and an extensive list of issues which took Respondent's counsel two full days to compile. It is noteworthy, that the Claimant's made allegations against many of her colleagues without any evidence to substantiate them they were allegations which should not have been made. The Tribunal also acknowledges that the human costs of this claim are huge and that people who previously thought of the Claimant as a friend were accused of serious matters such as race and disability discrimination without any evidence to back those allegations up.
33. Having determined that the threshold has been met for the Claimant to pay costs the Tribunal turned its mind as to the amount of costs to award. The Tribunal rules (**Rule 84**. "In deciding whether to make a costs, preparation time, or wasted costs order, and if so in what amount, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay") provides that a Tribunal 'may' have regard to the Claimant's means in assessing costs. The Claimant was obviously aware of this as she produced a document showing a balance as at 10 January 2021 on her Sainsbury's credit card. She did however not provide any other documents such as current account details, savings account details, ISA's etc, or any other accounts or give details of any capital amounts or assets she might have. The Claimant did not attend to give evidence of any income, or outgoings. This information could have been included in her written submissions.
34. In the circumstances while the Tribunal would normally consider the Claimant's means, the Tribunal is unable to do so. The Claimant has had her opportunity to present the Tribunal with evidence of her means but has chosen not to do so. There is no way of the Tribunal knowing, for example, when the debt on the Sainsbury's credit card was incurred and whether that amount was recently incurred in order to present some evidence that she was impecunious or whether it was a debt incurred over a period of time for normal living expenses.

**Case Numbers: 2300864/16; 2300312/7; 2301127/17;  
2302767/17; 2300964/18; 2302229/18**

35. In all the circumstances the Tribunal grants the Respondent's application and the judgment is that the Claimant shall pay £20,000 to the Respondent as a contribution towards the Respondent's costs

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Employment Judge Anne Martin  
Date: 17 January 2020