



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr N Wainwright

**Respondent:** Morrison Utility Services Limited

## COSTS JUDGMENT

The respondent's costs application is rejected.

## REASONS

1. This is the decision on the respondent's costs application, made without a further hearing in accordance with case management orders.
2. By way of background, I refer to the written record of the telephone preliminary hearing that took place in Nottingham on 18 March 2020 and, in particular, to the written reasons for the decision made at that hearing to extend time for presentation of the response, which should be deemed to be incorporated into these reasons. Since the hearing, the claimant's solicitors have emailed some further information and documentation into the Tribunal. The respondent had the opportunity to reply to that information and documentation, but have chosen not to do so.
3. The costs application was made orally at the preliminary hearing. The basis for it, essentially, was that it was unreasonable conduct for the claimant to have opposed the respondent's application for an extension of time. I agree with the respondent that it was unreasonable, and contrary to the overriding objective, for him to do so once the respondent's witness statement in support of the application had been submitted, on 12 March 2020. As I stated in my reasons for extending time, I think I would, in all the circumstances, have been making an error of law had I not granted the respondent's application. The claimant, through his solicitors, should have realised this.
4. I therefore have a discretion to award costs against the claimant, in accordance with rule 76. However, I decline to exercise my discretion to award costs because:
  - 4.1 the claimant is professionally represented and it is unlikely he would have opposed the granting of the time extension had he been advised against doing so;

- 4.2 on the evidence, he is impecunious and making a very small costs award, which is all I might conceivably award given his ability to pay, would serve no useful purpose;
- 4.3 even if the claimant had, between 12 and 18 March 2020, not opposed the granting of an extension of time, the hearing on 18 March 2020 would still have gone ahead, albeit it would have been shorter and, I accept, probably cheaper in terms of the respondent's legal costs.

EMPLOYMENT JUDGE CAMP

20/04/2020

Sent to the parties on:

21/04/2020.....

For the Tribunal Office: