EMPLOYMENT TRIBUNALS

Claimant **Respondent**

Mr Dilip Bhayani V **Royal Mail Group Ltd**

PRELIMINARY HEARING BY TELEPHONE

Heard at: **Watford** **On: 18 August 2020**

Before: **Employment Judge Bedeau**

Appearances:
For the Claimant: **Mr M Njoku, Solicitor**
For the Respondents: **Mr S Peacock, Solicitor**

JUDGMENT

1. The presentation of claims under case number 3324562/2019, is an abuse of process as it raises the same claims as in claim number 3325545/2017, which judgment was given on 26 November 2018, therefore, the claims in case number 3324562/2019, are struck out.
2. The claims in case number 3324562/2019, are also struck out as they were presented out of time.
3. The claimant is ordered to pay the respondent's costs in the sum of £2,500.

REASONS

1. On 23 October 2019, the claimant presented his claim form in which he claimed direct race discrimination and harassment related to race. He asserted that the respondent, in dismissing him on 15 May 2017, for failing to declare or report that he had received money from a company, Babz Media, in breach of its code of conduct, was direct race discrimination and harassment related to race.

2. The claimant is of Asian origins.

3. The claimant did not, give the names of actual comparators but stated that they were white.

4. In the response, the respondent averred that the claim based on the claimant's dismissal, was presented out of time. He was dismissed on 15 May 2017, but the

claim form was not presented until 23 October 2019, two years and five months later. Further, he had earlier presented claims of unfair dismissal, direct race discrimination and direct discrimination because of religion or belief on 31 July 2017, claim number 3325545/2017, which were heard by a full tribunal on 17 to 21 September 2018.

5. In a judgment sent to the parties on 26 November 2018, the tribunal dismissed the discrimination claims but found the claimant to have been unfairly dismissed. The case was listed for a remedy hearing on 24 June 2019.

6. The respondent contended that any claims arising out of the claimant's dismissal have been determined and were also out of time. In relation to the substantive issues, they were disputed, and the claims denied.

7. On 11 March 2020, Employment Judge R Lewis listed the case for a preliminary hearing, in public, for a judge to hear and determine whether the claims should be struck out. I gave judgment orally but promised the parties that the written judgment with reasons would be sent to them.

Background

8. There are two claim forms. The first in time is claim number 3325545/2017 and the instant claim is number 3324562/2019. I did not hear evidence in relation to the strike out issues.

Case number 3325545/2017

9. In the judgment of the full tribunal there is the agreed list of the issues in respect of claim number 3325545/2017. In relation to the direct discrimination claim, it stated the following:

> "3.5.1 Has the respondent subjected the claimant to the following treatment falling within section 39 Equality Act 2010, namely
>
> 3.5.1 subjecting the claimant to the respondent's code of conduct process;
>
> 3.5.2 dismissing him."

10. In paragraph 3.6 of the judgment, the claimant named 11 actual comparators, one of whom was Mr Alan Barr, Lead Distribution Manager.

11. The respondent's case during the tribunal hearing, was that it had been the victim of a multi-million pound fraud perpetrated by the owner and managing director of Babz Media and a number of the respondent's employees. Particular details of the fraud are in paragraphs 11 to 14 of the judgment, where the tribunal found:

> "11. The background to this case and the context of, which is of material significance to an understanding of the case, is that, for a period up to 2015, a multi-million pound fraud was perpetrated against the Royal Mail through a customer not paying for all their mail sent through the Royal Mail Service, with the assistance of Royal Mail staff, which the witnesses before the Tribunal have described as the biggest fraud known in the history of the Royal Mail. As a result of which, there was conducted a major investigation commencing in July 2014, culminating in criminal

prosecutions of the fraudsters.

12. In respect of these investigations, the Royal Mail Security Team highlighted that the customer under investigation, Babz Media, appeared to be aware of when the Royal Mail Security Team were attending and checking their mail, for which two employees in the respondent's Revenue Protection Team; the team charged with checking and ensuring that mail received from customers corresponded to the recorded manifests and on which payment for mail was charged, were identified as directly involved in the fraud and subsequently dismissed.

13. It is here noted that the claimant was interviewed as part of this fraud investigation, but was not identified as a party involved, warranting criminal prosecution.

14. It is against this background and in the circumstance of a further investigation being carried out internally, to determine whether there were any other employees who might have been engaged in the fraud, or otherwise breached internal procedures, that the case against the claimant lies."

12. Upon reading the judgment it was clear that the tribunal rejected the evidence adduced in support of the claimant's alleged discriminatory treatment. In its conclusions, having considered the claimant's conduct, it held the following:

"136. The tribunal here addresses the claimant's further specific complaints:

Discrimination on grounds of Race and/or religion and belief on subjecting the claimant to the respondent's conduct code process

137. On the tribunal's finding at paragraph 108 above, the tribunal finds that the claimant was brought within the respondent's conduct code process due to the apparent relationship he held with Babz Media following the investigation of Mrs Stevens, which investigation had equally been premised on his apparent relationship to Babz Media stemming from the Royal Mail investigation Team's enquiries into the fraud perpetrated by Babz Media, in which considerations of race or religion and beliefs, were not in play. On these facts, the tribunal finds that, save for the claimant being British of Asian origin, there is nothing thereby that calls into question considerations of race having been at play or otherwise, evidence from which the tribunal could conclude that race or otherwise religion and belief, was a consideration in subjecting the claimant to the conduct code process.

Discrimination on grounds of Race and/or religion and belief on dismissing the claimant

138. The tribunal finds that the reason for dismissal was the claimant's relationship with a major fraudster of the Royal mail, predicated on his telephone traffic and text messages with Mr Oberoi, which on the face thereof suggested a relationship beyond that of merely business, which was then placed in the context of the fraud as perpetrated, the likes of which the respondent had not previously suffered, and on which the decision to terminate the claimant's employment was made.

139. On these facts, the tribunal does not find facts from which it could

conclude that race, or religion and belief, was a consideration in making their decision for dismissal. In coming to this conclusion, the tribunal has also considered, to what extent the claimant being of Asian origin and similar to that of Mr Oberoi, could have influenced Mr Hinkley's or Mr Trunks' considerations, but to come to an adverse finding thereof, would be a step too far, there not being evidence before the tribunal to make such a determination. It is plain, the rationale of Mr Hinkley and Mr Trunks, was that they had focused on factual matters, directed by the value of the fraud, in which race and/or considerations of religion or beliefs were not in their thoughts, whether conscious or unconscious, namely that, premised on the telephone traffic and text messaging, they determined that the claimant had failed to report to management the presentation of the envelope with cash from a major fraudster as being evidence of a relationship beyond business, and by which connection they determined the trust necessary between employer and employee had broken down, warranting the termination of the employment relationship, despite the unfairness therein found by the tribunal.

140. The tribunal does not find evidence to support the claimant's contention in this respect.

141. For completeness, with consideration to the claimant's contention as to discrimination on grounds of religion and belief, on Mr Hinckley stating that it was permissible for employees to receive Christian gifts but not gifts for Diwali, the tribunal finds that Mr Hinckley did not make such a statement, the proposition being suggested by the claimant, which Mr Hinckley did not address, identifying that that was not the issue.

142. The tribunal accordingly finds no substance to the claimant's contention in this regard, Mr Hinckley clearly not addressing his mind to such considerations.

143. The tribunal accordingly finds that the claimant was unfairly dismissed when his employment was summarily terminated for reasons of gross misconduct on 15 May 2017, but has not been discriminated against on the protected characteristics of race or religion and belief."

13. The tribunal found that the claimant's dismissal was both substantively and procedurally unfair.

14. On the day of the remedy hearing, 24 June 2019, the parties' representatives were engaged in discussions with a view to settling. They agreed to a Consent Order, the terms of which were reduced to writing and signed by the representatives.

15. I am satisfied, having heard Mr Peacock, solicitor, who also represented the respondent at the earlier hearing, that Mr T Okunowo, solicitor on behalf of the claimant, signed the Consent Order as well as Mr Peacock. The terms were that the claimant would be paid the sum of £50,127 within 21 days; the sum was to be in full and final settlement of all claims brought by the claimant against the respondent; upon execution of the agreement, the claimant was required to notify the tribunal; upon notification, the remedy claim would stand dismissed; and the respondent agreed to provide the claimant with a factual reference.

16. There was a trial of those involved in the fraud at Isleworth Crown Court on 12 to 16 November 2018. They were five in number, all of whom were Asian. The Managing Director of Babz Media, who, apparently, was pivotal to the fraud, gave evidence on behalf of the Crown against the defendants having earlier pleaded guilty. It is clear that the trial began after the tribunal hearing on liability had concluded but before judgment was promulgated on 26 November 2018.

17. Mr Njoku, solicitor on behalf of the claimant, said that at the remedy hearing, at which he was not present, the claimant was seeking reinstatement but the respondent objected and referred to the content of the transcripts of the Crown court trial as evidence in support of the claimant's involvement in Babz Media bringing into play the issue of lack of trust and confidence in him. He stated that the claimant had asked for a copy of the transcripts in the possession of the respondent, but this was refused. He then had to obtain transcripts at his own expense in August 2019. After reading them he instructed Mr Njoku's firm to issue further Employment Tribunal proceedings. He asserted that the transcripts show that Mr Alan Barr, Lead Distribution Manager, and several other individuals, who are white, were involved in the fraudulent activities perpetrated on the respondent by Babz Media.

18. It must be stressed that the claimant was never prosecuted for his involvement in Babz Media nor for his relationship with that company's Managing Director.

19. Mr Njoku said that during the earlier hearing before the tribunal, in September 2018, the claimant was not aware of the Crown court trial. I accept that that was the case but before judgment was sent to the parties on 26 November 2018, the court trial had begun and ended. The judgment referred to criminal prosecutions against those involved following an investigation in 2014. That evidence could only have been given during the tribunal hearing. Upon reading the judgment, the claimant would have been aware that a number of the respondent's former employees were defendants in the trial. By the date of the scheduled remedy hearing, 24 June 2019, it was seven months after the conclusion of the Crown court case. I am of the view that the claimant must have been aware, prior to 24 June 2019, of proceedings in the Crown court.

20. Mr Njoku referred me to passages in a selected number of transcripts allegedly supporting the claimant's case that some of the respondent's white members of staff were involved in the fraud. He asserted that Mr Timothy Davies was referred to by the Managing Director in the Crown court trial, as having been involved in the fraudulent activities. Also, Mr Barr had a close relationship with the Managing Director. The Managing Director allegedly implicated Mr Timothy Barnes, a driver, as well as Mr Steve Whiting. All of these individuals were the claimant's comparators at the Employment Tribunal hearing. They are white and were not prosecuted.

21. The claimant's case was that there was evidence at the Crown court trial about Mr Barr's involvement with the Managing Director, yet he, as a white person, was not disciplined by the respondent.

22. What is contained in the transcripts, which the claimant did not have a full set of, was never before the respondent and the tribunal. I was uncertain as to what the various passages referred to by Mr Njoku, revealed. If Mr Barr was implicated by the Managing Director during the course of the criminal trial, he, Mr Barr, was not present challenge the oral evidence and to suggest that the Managing Director was trying to

minimise his involvement in the fraud by implicating others. Neither Mr Barr nor any of the individuals referred to by Mr Njoku, was later questioned by the police after Crown court trial and charged with fraud or any offences of dishonesty.

Case number 3324562/2019

23. The narrative in the claim form reads as follows:

> "1. The Claimant is of Asian origin and was employed by the Respondent as an Operational Postal Grade at the Greenford Mail Centre.
> 2. On 15 May 2017, the Respondent dismissed the Claimant alleging that he failed to declare or report receiving money from Babz Media in breach of the provisions of the Respondent's Conduct Code.
> 3. The Respondent has discriminated against the Claimant as follows:
> i. subjecting him to its Conduct Code process constituted direct discrimination because of race contrary to ss 9 and 13 Equality Act 2010 and/or harassment related to race contrary to s 26 Equality Act 2010;
> ii. dismissal constituted direct discrimination because of race contrary to ss 9 and 13 Equality Act 2010 and/or harassment related to race contrary to s 26 Equality Act 2010.
> 4. The Claimant was treated less favourably because of his race and he relies on actual comparators who are white and/or with that of a hypothetical comparator.
> 5, The Respondent's conduct created an environment that is intimidating, hostile and humiliating to the Claimant."

24. Apart from the claim of racial harassment, the pleadings are the same as in the earlier claim form.

Submissions

25. I have taken into account the oral and written submissions by Mr Njoku, on behalf of the claimant, and by Mr Peacock, on behalf of the respondent. Having regard to rule 62(5) Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, I do not propose to repeat their submissions herein as reference can be made to their written submissions.

The law

26. Under section 123 Equality Act 2010, a complaint must be presented within three months,

> "starting with the date of the act to which the complaint relates" (a), "or such other period as the employment tribunal thinks just and equitable," (b) and "conduct extending over a period is to be treated as done at the end of the period," (3)(a).

27. Time limits are to be applied strictly. The Court of Appeal held that the exercise of the discretion on just and equitable grounds, is the exception rather than the rule, Robertson v Bexley Community Centre [2003] IRLR 434. The factors the tribunal may consider in exercising its discretions are: the reason for and the extent of the delay; whether the Claimant was professionally advised; whether there were any genuine mistakes based on erroneous information; what prejudice, if any, would be caused by allowing or refusing to allow the claim to proceed; and the merits of the claim. There is no general rule and the matter remains one of fact.

28. In the case of Abertawebro Morgannwg University Health Board v Morgan EWCA/Civ/EAT/640, it was held by the Court of Appeal, that the tribunal has a broad discretion to consider factors, such as the length of and reasons for the delay; whether the delay has prejudiced the respondent; and the prejudice to the claimant.

29. Where an issue has already come before a court or tribunal and has been decided, or an issue could have been brought before a court or tribunal in previous proceedings but was not, the party who seeks to reopen or raise such an issue in subsequent proceedings before a different court or tribunal, may be barred or estopped from doing so because of the application of the principle of res judicata.

30. In the case of Divine Bortey v Brent London Borough Council [1998] ICR 886, the Court of Appeal identified three categories of estoppel falling within the principle of res judicata. They are as follows: –

i. cause of action estoppel, which prevents a party pursuing a cause of action that has been dealt with in earlier proceedings involving the same parties;

ii. issue estoppel, which prevents a party from reopening an issue that has been decided in earlier proceedings involving the same party; and

iii. the rule in Henderson v Henderson [1843] 3 Hare 100, PC, which was revised by the House of Lords in the case of Johnson v Gore Wood and Co [2002] 2 AC 1, in which it was held that if a party fails to raise an issue in proceedings that he or she could and should have raised, he or she may be estopped from raising that issue in the future if to do so would amount to an abuse of the legal process.

31. In relation to new evidence, in the case of Ladd v Marshall [1954] 3 All ER 745, the Court of Appeal held that with regard to the admission of new evidence on appeal in civil litigation, that it provides a ground of appeal if the new evidence had become "…available since the conclusion of this hearing to which the decision relates, provided that its existence could not have been reasonably known or foreseen at that time."

32. In the case of Wileman v Minilec Engineering Ltd [1988] ICR 318, the Employment Appeal Tribunal held that in relation to a reconsideration application based on the interests of justice ground, unless the new evidence is likely to have an important bearing on the result of the case, the application should be refused.

33. There is authority for the proposition that where new evidence relates to a crucial finding of fact, the appropriate course is to apply for a reconsideration, Adegbuji v Meteor Parking Ltd UKEAT1570/09.

34. A tribunal may strike out all or part of any claim or response on the ground "that it is scandalous or vexatious or has no reasonable prospect of success.", rule 37(1)(a) Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

35. In addition, I have considered the cases of: London Borough of Southwark v Afolabi [2003] ICR 800; and Chief Constable of Lincolnshire Police v Caston [2010] IRLR 327.

Conclusion

36. Mr Njoku candidly admitted that he had not read all of the selected number of transcripts in his possession, only parts of them. Moreover, he said that the claimant, for reasons to do with cost, did not obtain all of the transcripts of the Crown court trial.

37. Mr Njoku referred me to a limited number of places in the transcripts which he asserted show that Mr Barr and some of the comparators relied on during the first hearing, were implicated in the fraud by the Managing Director of Babz Media. I am somewhat doubtful that the passages demonstrate that they were involved in fraudulent activities. The difficulty here for the claimant was that Mr Barr and the others referred to by Mr Njoku, were not present during the criminal trial, did not give evidence, nor were they defendants. It was open to the claimant to call the Managing Director to give evidence at the liability hearing as he had personal knowledge of those employed by the respondent with whom he had dealings and were engaged in the fraud, but he was not a witness. The tribunal considered the evidence before it and concluded that the direct race discrimination claim was not well-founded.

38. Applying Ladd v Marshall, the existence of the Managing Director was always known to the claimant as he had dealings with him. Even if the Managing Director had implicated Mr Barr and others, had he been called by the claimant during the tribunal hearing, he was likely to give similar evidence. The claimant had not satisfied the requirement in Ladd v Marshall. I, therefore, do not conclude that the Managing Director's evidence could not have "reasonably been known or foreseen at the time".

39. The additional claim made in case number 3324562/2019, was harassment related to race. There is nothing in this claim in the way it has been pleaded. It was open to the claimant to add such a claim during the liability hearing. In the Henderson v Henderson case, a party must include all claims arising out of certain facts when issuing proceedings otherwise they would be estopped from doing so in later proceedings. The claimant could and should have raised a claim of harassment related to race in the earlier tribunal proceedings. He is estopped from doing so in this case as to allow him to proceed would amount to an abuse of process.

40. I further conclude that the claims of direct discrimination because of race, falls foul of the cause of action estoppel principle. They were the same claims pursued before the full tribunal during the liability hearing which were not well-founded.

41. It follows from my conclusions that claims under claim number 3324562/2019, are an abuse of process and are struck out.

42. It is of academic significance that the claims in claim number 3324562/2019, were presented out of time having regard to section 123 Equality Act 2010.

Costs

43. The respondent applied for costs incurred in having to respond to the claims. From the information provided costs to date came to £4,128.74 including value added tax.

44. The costs provisions are in rules 74 to 84, schedule 1, Employment Tribunals (Constitution and Rules of Procedure) regulations 2013, as amended. "Costs" includes any fees, charges, disbursements, or expenses including witness expenses incurred by or on behalf of the receiving party, rule 74(1).

45. The power to make a costs order is contained in rule 76. Rule 76(1) provides,

> "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, disruptively, 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 prospect of success."

46. In deciding whether to make a costs order the tribunal may have regard to the paying party's ability to pay, rule 84.

47. In the case of Yerrakalva v Barnsley Metropolitan Borough Council [2011] EWCA Civ 1255, the Employment Judge in the case awarded the respondent 100% of its costs based on the claimant's lies prior to her decision to withdraw. On appeal the EAT said that it was unable to see how the lies told at the prehearing review caused the respondent any loss at all from which they were entitled to be compensated. She succeeded in her appeal. On appeal to the court of Appeal, Mummery LJ giving the leading judgment held:

> "The vital point in exercising their discretion to order costs is to look at the whole picture of what happened in the case and asked whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it and what affects it at that. The main thrust of the passages cited above from my judgement in McPherson's case was to reject as erroneous the submission to the court that, in deciding whether to make a costs order, the employment tribunal had to determine whether or not there was a precise causal link between the unreasonable conduct in question and the specific costs the claimant. In rejecting that submission I have no intention of giving birth to erroneous notions, such as that causation was irrelevant or the circumstances had to be separated into sections and each section to be analysed separately so as to lose sight of the totality of the relevant circumstances….
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> 52 In my judgement, although the employment tribunal had jurisdiction to make a costs order, it erred in law in the exercise of its discretion. If, as should have been done, the criticisms of the council's litigation conduct had been factored into the picture as a whole, the employment tribunal would have seen that the claimant's unreasonable conduct was not the only relevant factor in the exercise of the discretion. The claimant's conduct and its effect on the costs should not be considered in isolation from the rest of the case, including the council's conduct and its likely effect on the length and costs of the prehearing review."

48. In the case of Vaughan v London Borough of Lewisham UKEAT/0533/12/SM, the Employment Appeal Tribunal held that there was no error of law when the Employment Tribunal, in awarding costs, took into account whether there was a reasonable prospect of the claimant being able, in due course, to return to well-paid employment and be in a position to pay costs. Also in that case it was held that the

failure on behalf of the respondent to apply for a deposit order is not necessarily an acknowledgement that a claim has a reasonable prospect of success as there are a variety of reasons why such a course of action may not be adopted, such as additional costs involved in having the matter considered at a preliminary hearing and which may not deter the claimant.

49. Knox J, in Keskar v Governors of All Saints Church England School and Another [1991] ICR 493, page 500, paragraphs E-G, held,

> "The question whether a person against whom an order for costs is proposed to be made ought to have known that the claims he was making had no substance, is plainly something which is, at the lowest capable of being relevant, and we are quite satisfied from the decision itself, in the paragraph which I have read and need not repeat, that the industrial tribunal did have before it the relevant material, namely that there was virtually nothing to support the allegations that the applicant made, from which they drew the conclusion that he had acted unreasonably in bringing the complaint.
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> That in our view, does involve an assessment of the reasonableness of bringing the proceedings, in the light of the non-existence of any significant material in support of them, and to that extent there is necessarily involved a consideration of the question whether the applicant ought to have known that there was virtually nothing to support his allegations."

50. In Marler, it was held by Sir Hugh Griffiths under the old "frivolous or vexatious" costs requirements that

> "If the employee knows that there is no substance in his claim and that it is bound to fail, or if the claim is on the face of it so manifestly misconceived that it can have no prospect of success, it may be deemed frivolous and an abuse of the procedure of the tribunal to pursue it. If an employee brings a hopeless claim not with any expectation of recovering compensation but out of spite to harass his employers or for some other improper motive, he acts vexatiously, and likewise abuses the procedure. In such cases the tribunal may and doubtless usually will award costs against the employee.", page 76 D-F.

51. In the Oni case, Simler J, President, re-stated the principles, namely that the tribunal has a wide discretion in deciding whether to award costs. It is a two-stage process. The first being, to determine whether the paying party comes within one or more of the parameters set out in rule 76. The second, is if satisfied that one or more of the requirements have been met, whether to make the award of costs. However, costs had to be proportionate and not punitive and reasons must be given.

52. In Arrowsmith v Nottingham Trent University [2011] EWCA Civ 797, a case where the claimant was ordered to pay costs of £3,000 because she had made a case dependent on advancing assertions that were untrue. The Court of Appeal held that under rule 41(2) the tribunal was not obliged to take her means into account although it had done so. The fact that her ability to pay was limited, in that she was unemployed and no longer in receipt of statutory maternity pay, did not require the tribunal to assess a sum limited to an amount she could pay. The amount awarded was properly within the tribunal's discretion.

53. In relation to the exercise of the tribunal's discretion whether to take into account the paying party's ability to pay, under the old rules, HHJ Richardson, in the case of Jilley v Birmingham & Solihull Mental Health NHS Trust (EAT/584/06), held:

> "The first question is whether to take ability to pay into account. The tribunal has no absolute duty to do so. As we have seen, if it does not do so, the County Court may do so at a later stage. In many cases it will be desirable to take means into account before making an order; ability to pay may affect the exercise of an overall discretion, and this course will encourage finality and may avoid lengthy enforcement proceedings. But there may be cases where for good reason ability to pay should not be taken into account: for example, if the paying party has not attended or has given unsatisfactory evidence about means."
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> "If a tribunal decides not to do so, it should say why. If it decides to take into account ability to pay, it should set out its findings about ability to pay, say what impact this has had on its decision whether to award costs or on the amount of costs, and explain why. Lengthy reasons are not required. A succinct statement of how the tribunal has dealt with the matter and why it has done so is generally essential."

54. I have concluded that bringing the present claims was an abuse of process. I further conclude that in doing so the claimant had acted unreasonably, rule 76(1)(a), and that the claims had no reasonable prospect of success, rule 76(1)(b).

55. The claimant gave evidence from which I made findings of fact. He is married and has three children: two adult daughters, and a dependant son, age 13 years. His wife works part-time earning around £17,000 gross per annum. He works as an Installer earning £25,000 gross p.a. His net earnings are £21,000. With mortgage, council tax, food, gas and electricity and other incidentals, his outgoings each month is around £2,200. He said that he has no savings.

56. In addition to concluding that the current claims amount to an abuse of process, and in bringing proceedings the claimant had acted unreasonably,

57. I do take into account the claimant's means. He is a married man with a dependant son. Both he and his wife work. Costs have been incurred by the respondent in defending the claims up to this preliminary hearing in public. The costs are £4,128.74 which have been reasonable incurred. However, I order that the claimant shall pay the respondent's costs in the sum of £2,500.

Employment Judge Bedeau

15 September 2020

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Sent to the parties on:

16/09/2020

For the Tribunal:

Jon Marlowe