



Case No. 1804955/2018

EMPLOYMENT TRIBUNALS

Between: Mrs K Keighley
Claimant

and

Age UK Leeds
Respondent

JUDGMENT

Within 28 days of the date this Judgment is sent to the parties, the Claimant shall pay the Respondent £5,180.44 in respect of its costs in defending the claim from 31 July 2018 onwards.

REASONS

1. On 12 October 2018 the Tribunal made an Order that by 12 April 2019 the Claimant pay the Respondent £9,365.20 in respect of its costs in defending the claim. On 9 September 2020 the Employment Appeal Tribunal (EAT) set aside that Order and substituted an Order that the Claimant pay the amount of the Respondent's costs that were incurred from 31 July 2018 onwards.
2. At the Hearing of the claim, the Respondent gave an itemised account of its costs, which the Tribunal found to be reasonable. (The EAT's Judgment did not relate to that assessment.) The amount incurred from 31 July 2018 onwards was £5,260.44, comprised of solicitor's fees of £2,260.44 and counsel's fees of £3,000 (both inclusive of VAT at 20%). The Tribunal had already ordered the Claimant's deposit of £80 to be paid to the Respondent. The Tribunal therefore wrote to the parties on 9 October 2020 notifying them that it proposed to issue a fresh Judgment ordering the Claimant to pay the Respondent the sum of £5,180.44 within 28 days of that Judgment. It invited the parties to send the Tribunal any representations they wanted to make on that proposal within 14 days (that is, by 23 October).
3. On 23 October the Claimant wrote to the Tribunal asking for a 6-week extension of time to make representations, citing the fact that she did not have legal representation and was unable to seek legal advice because of the restrictions caused by coronavirus. She was also waiting for a copy of the transcript of the EAT's Judgment. She said that she did not agree with the sum claimed by the Respondent but would need time to prepare the points of dispute.

4. On 27 October the Tribunal received a copy of the EAT's Judgment. On 4 November the Tribunal wrote to the Claimant stating that it assumed that she now had a copy of the EAT's Judgment. It gave her an extension of over 4 weeks, to 27 November, to make representations. It explained that if it did not hear from her by that date, it intended to make a Costs Order in the terms already proposed.
5. On 20 November the Claimant wrote to the Tribunal again, applying for a further extension of 12 weeks to make representations. She said that she was unable to seek free legal advice due to the lockdown from 5 November. She needed extra time to set out in writing to the EAT why it should review its decision. She was suffering from a high level of anxiety and could not deal with any further demands from the Tribunal. She was waiting for confirmation that she would be offered counselling therapy.
6. The Tribunal refused the Claimant's application. It did not consider that any of the reasons she gave justified a further extension. The Tribunal had already extended time by over 4 weeks. If, as the Claimant said, she could not obtain free legal advice due to coronavirus restrictions, that situation was unlikely to change for the foreseeable future, not just for another 12 weeks. Even in the absence of legal advice, the Claimant had already said that she contested the amount the Respondent was claiming but she had not explained how and why, either at the Hearing or since. The Tribunal did not consider it appropriate to delay the making of a new Costs Order simply because the Claimant was contemplating asking the EAT to review its decision. The Claimant gave no timescale for when her counselling therapy, if it was offered, would begin, nor why her anxiety prevented her from identifying why she disagreed with the Costs Order that the Tribunal proposed when it did not prevent her drafting an application to the EAT.
7. In the light of the fact that no representations had been received from the parties to question the basis of its original proposal, the Tribunal decided to make a Costs Order as originally proposed.

Employment Judge Cox

Date: 4 January 2021

Judgment and reasons sent to the
parties on

Date: 4 January 2021