



# EMPLOYMENT TRIBUNALS

**Claimant**

**Respondent**

**Mr Nicholas Knupffer**

**v 1. Advanced Micro Devices (UK) Limited  
2. Mr John Taylor**

**On: 21 May 2021**

**Employment Judge Smail**  
In Chambers

## **JUDGMENT ON THE FIRST RESPONDENT'S APPLICATION FOR COSTS IN RESPECT OF THE INTERIM RELIEF HEARING**

1. The Claimant acted unreasonably in pursuing his application for interim relief post 28 April 2020 when disclosure by way of list took place.
2. The Tribunal exercises its discretion to award the First Respondent's costs of the interim relief hearing against the Claimant.
3. The First Respondent's costs of the interim relief hearing are summarily assessed at £10,000.
4. The Claimant must pay the First Respondent the said sum of £10,000 within 14 days of the conclusion of the unfair dismissal proceedings, whether by Tribunal Judgment or settlement. This is without prejudice to the terms of any settlement being free to provide how this costs order should be treated.

## REASONS

1. I have had the Reasons for the Interim Relief Judgment typed up. They are to be read alongside these Reasons.
2. By Rule 76 of the Employment Tribunal's Constitution and Rules of Procedure Regulations 2013, the Tribunal may make a costs order, and shall consider whether to do so, where it considers that a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in ... the way that the proceedings (or part) have been conducted.
3. In this case the Claimant pursues a claim for automatic unfair dismissal arguing that the reason or principal reason for his dismissal was that he had made one or more protected disclosures. Alternatively, he claims general unfair dismissal. The interim relief application was only available in respect of the former way of putting the case.
4. The sheer weight of the information available following (at latest) disclosure points to longstanding capability concerns being the reason (or principal reason) for dismissal with no hint of tarnish flowing from any protected disclosure.
5. This was manifest also from the recordings of meetings with a manager, Ms Cotter, the Claimant disclosed only on the morning of the Interim Relief Hearing. Itself conduct which could merit a costs award. In those recordings the Claimant does not allege that any protected disclosure had anything to do with the predicament he was in. The 360 degree peer review, further, makes harrowing reading and strongly points to capability concerns as a manager.
6. There were no reasonable prospects of the Claimant securing an interim relief order. This should have been known to him at latest following disclosure. He was reminded of this – if he needed to be – in a Calderbank letter from the First Respondent dated 31 March 2020.
7. I exercise my discretion to make a costs award to mark the Tribunal's belief in the unreasonableness of the Claimant's pursuing his interim relief application.
8. I reject the suggestion that the First Respondent's disclosure has been inadequate. There is a near-overwhelming weight of material pointing to capability concerns.
9. I have taken the Claimant's means into account. I see he has some shared equity in a property. I note he has the capacity to secure well remunerated employment. I also note that there may be some value in the general unfair

dismissal claim in this case which has legs procedurally, as pointed out in the interim relief Reasons. On that basis, I order that these costs are not payable until the end of the unfair dismissal proceedings.

10. I note that the First Respondent's solicitors will charge their clients significantly more than £10,000 for the interim relief proceedings. That is a matter for them. I acknowledge they are commercial solicitors representing a commercial company. That said, I assess the recoverable costs at £10,000 which is far in excess of the usual sum typically ordered for a day at the Employment Tribunal.

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Employment Judge Smail

Date: 21 May 2021

Sent to the parties on: .....

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For the Tribunal Office