EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4107855/2019

Held in chambers on

11 August 2021

Employment Judge M Robison

Mr H D Williams	**Claimant** **Written submissions** **Mr S Smith** **Solicitor**
Scottish Water	**Respondent** **Written submissions** **Mr R Turnbull** **Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the respondent's application for expenses dated 21 December 2020 is granted on the grounds that the claimant has acted unreasonably in the way that the proceedings have been conducted in terms of rule 76(1)(a) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

The claimant shall pay to the respondent the sum of ONE THOUSAND POUNDS (£1,000) in respect of expenses incurred by the respondent in defending this claim.

REASONS

1. This application for expenses was made by the respondent by e-mail dated 21 December 2020 following a decision of the Employment Tribunal issued 9 December 2020.

2. There has been a considerable delay in dealing with this application for which I apologise. Due to an administrative oversight, for which it is understood that the Tribunal Service directly apologised, there was a considerable delay in this matter being referred to the Employment Judge. Other factors have also contributed to the delay, including the claimant's appeal, which was dealt with on the sift; the claimant's application for legal aid; the claimant was ill; and the parties were required to provide certain additional information.

3. During that period parties confirmed that they were content for the application to be dealt with by way of written submissions.

4. Mr Turnbull's initial application submitted on 21 December 2020 contained comprehensive submissions. He was requested to provide a statement of account with further specification of sums sought which he did in an e-mail dated 9 June 2021. These documents are taken into account in determining this application.

5. Mr Smith provided a substantive written submission to the Tribunal on 20 July 2021, which included a statement by the claimant and some documentation to vouch his financial position. These documents have been taken into account in determining this application.

Relevant law

6. Rule 76 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1, sets out when an expenses order may or shall be made.

7. Rule 76(1) states that a Tribunal may make an expenses order and must consider whether to do so, where (a) it considers that 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 prospects of success.

8. Rule 74 states that in Scotland all references to costs should be read as references to expenses.

9. Rule 78 sets out the provisions regarding the amount of the expenses order and Rule 84 states that a tribunal may have regard to the paying party's ability to pay.

10. The courts have emphasised when considering costs or expenses generally, that awards of costs or expenses are the exception and not the rule (*Gee v Shell (UK) Ltd* 2003 IRLR 82 CA). Further, the aim in making an order is to compensate the party which has incurred the expense in winning the case and not punishment of the losing party (*McPherson v BNP Paribas* 2004 IRLR 558).

11. The Tribunal in exercising its discretion must have regard to the nature, gravity and effect of the unreasonable conduct. That does not require the respondent to prove that specific unreasonable conduct by the claimant caused particular costs to be incurred (*McPherson v BNP Parabis* 2004 IRLR 558 CA) but any award of costs must, at least broadly, reflect the effect of the conduct in question (*Barnsley Metropolitan Borough Council v Yerrakalva* 2012 IRLR 78 CA).

Tribunal's deliberations and decision

12. The respondent makes an application for expenses under rule 76(1)(a) on the basis that the claimant has acted unreasonably in the bringing/conducting proceedings and under rule 76(1)(b) that the claim had no reasonable prospects of success.

13. In his submissions, Mr Turnbull first set out a detailed timeline showing expenses warnings which were made to the claimant between 27 September

2019 and 21 April 2020. He then set out the relevant law which he sought to rely on.

14. Mr Smith in summary submitted that the award of expenses sought would require to be an exceptional case, which this was not. In any event, such sum would be punitive in the extreme to the claimant rather than compensatory to the respondent and therefore unwarranted in terms of principles from case law; and unwarranted in terms of being disproportionate and possibly difficult for the claimant to ever pay.

15. Mr Smith then set out the relevant rules, accepting the legal principles set out by the respondent. However, relying on *Lodwick v LB of Southwark* 2004 ICR 884, approved by the EAT in *Edinburgh Council v Wilkinson* UKEAT/0062/08, he emphasised that it must be borne in mind that an award of expenses is the exception and not the rule; the Tribunal is an industrial jury not a court; costs remain exceptional; and the aim is to compensate the party who has incurred the expense not punish the losing party.

16. The Tribunal in this case is asked to make an order for expenses in terms of rule 76 against the claimant in respect of his pursuit of this claim; failing which for expenses incurred following “disclosure” when he was furnished with the facts and documents which the respondent would rely on.

17. The respondent relies on two reasons, first that the claim had no reasonable prospects of success and second that the claimant acted vexatiously, abusively, disruptively or otherwise unreasonably in bringing the claim or in the conduct of the proceedings.

18. The Tribunal must consider whether to make an expenses order where it finds one or more of the grounds met, here that claimant has acted unreasonably in the way that the proceedings have been conducted or that the claim has no reasonable prospects of success.

19. This is a two stage test. The first question I must ask is whether one or both grounds have been made out. If so, then I must consider whether or not I should exercise my discretion to make an award of expenses.

First stage of test: has one or both of the grounds been made out?

20. I should say at this stage that my starting point is that an award of expenses is still the exception rather than the rule. Although I did not agree with Mr Smith, if this is what he is arguing, that the circumstances have to be exceptional, I accepted Mr Turnbull's reliance on *Power v Panasonic* UKEAT/0439/04 that the facts did not have to be exceptional for an award to be made, just that the relevant test is satisfied.

First ground: no reasonable prospects of success

21. The first question to consider is whether the claimant knew or ought to have known at the relevant time that his claim had no reasonable prospects of success.

22. Relying on *Radia v Jeffries International* 2020 IRLR 431, Mr Turnbull in submissions on this point referenced guidance from HHJ Auerbach when assessing whether the claim had no reasonable prospects of success. At stage 1 the tribunal should consider whether that was objectively the position when the claim began; and at stage 2 the tribunal will usually need to consider whether, at that time, the complainant knew this to be the case, or at least reasonably ought to have known. He relies on this as authority for the principle that the threshold is crossed even if the complainant did not realise it at the time, the test being objective. The fact of there being factual disputes is not determinative. While tribunals should not be influenced by hindsight, it may have regard to any evidence available to it when it considers this question which casts light on what was known at the start of the litigation.

23. In this case, he argued, the vast majority of facts were known to the claimant at the outset; he just simply did not accept those facts and lied about what actually happened, the respondent having put forward facts and documents. It would be wrong for the Tribunal to conclude that he did not know the facts until he heard evidence, especially when he had legal representation very shortly after submitting his claims. If he could not be expected to know at the outset, then he should have known prior to the hearing, after exchange of documents.

24. In support of his submission, Mr Turnbull quoted certain findings from the judgment. He submitted that not even the claimant's evidence supported his own assertion; and he ought to have known on a fair reading of the telematics policy that it had not been breached. In any event there was sufficient evidence that the claimant did commit the allegations from his own admission.

25. He relied on *Radia* to submit that the absence of a strike out or deposit order application does not preclude an expenses order; here the claimant was warned on multiple occasions that expenses would be sought.

26. Mr Smith's focus in his submissions was on this ground. With regard to the relevant facts, he relies on dicta quoted in the *Lodwick* case, namely "that which is plain for all to see once the dust of battle has subsided was far from clear to the contestants when they took up arms".

27. He submitted that the following were "not plain to see" when the claim was lodged:

    a. details of the investigation into Gary Black: the claimant had only heard of these matters by word of mouth, but he did not see the outcome letter until disclosure, which only occurred as a result of the claim;
    b. Phil Beardmore's evidence about how the two disciplinary matters differed, specifically in relation to how he came to the conclusion that the claimant's overtime claims were fraudulent;

c. the records of the disciplinary/grievance meetings heard by the respondent, which were highly contentious. These were not produced until after the claim was raised.

28. In addition, Mr Smith submits that there were points which the tribunal could only determine by making an assessment of the witness's oral evidence speaking to documents, or to matters not recorded in writing, as follows:

a. whether the claimant should have been entitled to work under the same flexible arrangement as Gary Black, therefore negating objection to early finishes;

b. the impact of the respondent's failure to investigate the claimant's reported issues in relation to his daughter's schooling issues;

c. whether there was a material difference between Garry Black's reasoning for failure deviating from his route home after shift and deviations by the claimant of which the respondent ought to take account;

d. whether trust in the claimant had been irreparably damaged as claimed by the respondent in light of the claimant's allegations of usage of the telematics data, and what he and his union had been told about it;

e. whether use of the claimant's telematics data was in contravention of DPA;

f. whether the manner in which the investigation into the claimant was conducted was intended to intimidate;

g. whether Phil Beardmore's connection to Scott Campbell and involvement in the previous grievance and hearings rendered him lacking in independence as the decision-maker;

h. whether the failure to rectify procedural defects during the appeal process would render dismissal procedurally fair;

i. whether the tribunal would accept the claimant's position on the agreement to pay holiday pay;

j. whether the tribunal would accept the claimant's position that he ought to be paid bonus pay as he had completed the requisite working period; and

k. the connection between the claimant's grievances and his treatment and dismissal.

29. Mr Smith also took issue with the respondent's reliance on the claimant's reluctance to agree the minutes of the investigatory and disciplinary hearings. This is because he submits that it was clear that a number of points were contested at those hearings; and that the minutes are therefore not easy to follow. The claimant's position was that they were not accurate, and that they were conducted in a much more accusatory fashion than what has been put down on paper. The claimant felt he was being interrogated and gave examples of the same questions asked twice.

30. I accept that this question about what the claimant knew or ought to have known at the time is an objective test. I therefore considered whether the claimant knew or ought to have known that the claim had no reasonable prospects of success.

31. In making this assessment I take into account the fact that the claimant was represented by his union, and then had legal representation from relatively early on in his pursuit of this claim.

32. I take account of the fact that the claimant admitted wrongdoing during the course of the disciplinary hearing; both that his overtime claims were false and that he had used the company vehicle; and he had eventually on apologised the advice of his union.

33. To that extent I agreed with Mr Turnbull that at the very least the claimant ought reasonably to have assumed that there would be contributory fault; and that re-engagement was not a reasonable outcome.

34. Mr Smith set out a number of matters which he argued meant that the claimant could not know of his poor prospects of success. I did not necessarily agree with them all, as further discussed later in this judgment. However, I took account of the fact that a key plank of the claimant's arguments, which relates to the reasonableness or otherwise of the sanction of dismissal, is that dismissal was unfair because of a lack of consistency between how he was treated and how Mr Black was treated.

35. In relation to the consistency argument, I accept that the respondent's position on Mr Black was not as clear from the paperwork such that the claimant could know that argument in particular would not succeed.

36. I did accept that given the only evidence or advance notice of the evidence relating to this point was the outcome letter (page 471). I came to the view that it was not necessarily clear from that letter how his circumstances differed from those of Mr Black (who as I understand it was disciplined after the claimant). I accept therefore that it was not until the claimant heard the evidence of Mr Beardmore that he could be clear about the rationale for his decisions and how the circumstances differed.

37. I also accepted that the position with regard to any agreement on holiday pay and bonus pay was not entirely clear cut from the documentary evidence, such that the claimant ought to have known that he had no reasonable prospects of success in regard to those claims before hearing evidence.

38. I came to the view therefore that it could not be said that the claimant should have known that there were no reasonable prospects of success until after the evidence had been heard.

Second ground: unreasonable conduct

39. I then went on to consider whether it could be said that the claimant acted "vexatiously, abusively, disruptively or otherwise unreasonably" in bringing proceedings or in the conduct of these proceedings.

40. With regard to this second ground, Mr Turnbull makes this application on two grounds. First he submits that it was unreasonable for the claimant to pursue claims which he knew had no reasonable prospects of success and he lied about the facts. Here the respondent had more than a reasonable belief the claimant committed gross misconduct, because he did commit gross misconduct and continued to lie about it. It was clear from the facts the claimant caused his dismissal and that there would have been 100% contribution; and he would not be reinstated.

41. Secondly, he argues that the claimant acted "vexatiously, abusively, disruptively or otherwise unreasonably" because of :

    a. Grossly excessive grounds and manner in which he challenged the fairness of his dismissal: the claimant adopted an attitude where he relied on many unsubstantiated grounds to challenge the appeal, many of which concerned historical events, to distract from the key issues to determine. It was also unreasonable for the claimant not to agree the minutes of the investigation meetings and disciplinary hearings. The Tribunal must find that had the claimant acted reasonably, time and expense could have been significantly avoided, including the need for the respondent to investigate the historic allegations and grievances.

    b. The claimant also attempted to mislead the Tribunal, by saying both before and during the hearing what he believed was helpful to his position rather than what was in fact true. Mr Turnbull referenced comments in the judgment which he submitted amounted to findings that the claimant had lied on a number of occasions. He submitted that the calculated, multiple and significant lies amount to vexatious, abusive and unreasonable conduct.

42. Although Mr Turnbull apparently relies on the fact that the claimant's conduct was vexatious, abusive, disruptive as well as unreasonable, he does not make any submissions addressing each of those elements. I was of the view however, there being no evidence of actual malice or intention, that it could not

be said that his conduct was vexatious, and nor would I say that it was abusive or disruptive. However I have come to the view that his conduct in these proceedings was unreasonable for the following reasons.

43. By reference to the principles in *McPherson* and *Yerrakalva*, I am aware that I must take account of the whole picture, and in particular to identify the conduct; consider what was unreasonable about it; and what effect it had.

44. I take account of the fact that there is no general principle that if a claimant lies that an award of expenses will follow: "a lie on its own will not necessarily be sufficient to found an award of costs. It will always be necessary for the tribunal to examine the context and look at the nature, gravity and effect of the lie in determining the unreasonableness of the alleged misconduct" (see *Arrowsmith v Nottingham Trent University* 2012 ICR 159).

45. I take account of the fact that I found that the claimant's evidence was neither credible nor reliable. This is what I recorded in the judgment itself:

"I found the claimant to entirely lack both credibility and reliability. I did not find him to be at all candid in the way that he gave his evidence. He seemed to have difficulty in answering the questions, even indirectly. Either he did not understand the questions, or he was answering what he thought he was supposed to answer to support his case. Certainly, I found many of the answers to questions at best confusing.

I agreed with Mr Turnbull that some of the evidence which the claimant gave either to be a gross exaggeration or to be simply incredible, for example if I understood him correctly when questioned about his answers in the disciplinary hearing he claims that he had been forced through intimidation tactics to admit the misconduct. His explanation was just not plausible; as Mr Turnbull submitted, he admitted to it because the overwhelming evidence showed the claims were false. Further his explanation for his answer to the question whether he had ever used the vehicle for private use was obfuscatory….

There were a significant number of matters which the claimant raised in his evidence which had not been put to Mr Beardmore. I came to the view that these were not matters which he had brought to the attention of his solicitor and indeed that he was making up his evidence and changing his statement as he went along".

46. In essence, I came to the view that the claimant was either quite content to make his evidence up as he went along; or that he had completely deluded himself about the truth.

47. On the matter of the historic grievances, I record in the judgment that: "The grievances were raised and dealt with in 2016/2017. I did not accept tath any of the grievances were even indirectly against mr Beardmore, and I did not accept that because he had been involved in resolving them that might mean that he bore a grudge against the claimant (particularly when the outcome was favourable to the claimant in respect of both). Most importantly, this rationale was not raised at any point during the disciplinary process. The claimant did not at any time during the whole disciplinary process make reference to his belief that his dismissal was a response to him having lodged grievances against his managers. I came to the view that if the claimant believed that a grudge was being held against him for raising these grievances, he would have been very quick to raise that through his unions as soon as disciplinary proceedings commenced".

48. I therefore accepted Mr Turnbull's submission that the raising of this passage of evidence was entirely without substance and was aimed at detracting from the core issues. It had the effect of requiring the respondent to investigate these matters which they would otherwise not have require to spend time investigating or in the preparation of their defence.

49. On the matter of the conspiracy theory, I recorded in the judgment that: "the claimant in this case relied on a conspiracy theory, which would involve all managers, Mr Campbell, Mr Baillie, Mr Beardmore, Mr Slavin, Mr Kyle, as well as Mr Beardmore's PA being involved. He claims that events were as a result of

his poor relations with Mr Campbell and Mr Baillie, that Mr Beardmore was drawn in and conspired to ensure that the claimant was dismissed. I had no hesitation whatsoever in rejecting that suggestion. That was not least because this whole matter came to light because of the actions of the claimant himself in insisting on payment of an overtime claim which proved to be false, even threatening to lodge a grievance about the delay".

50. I said that I had no hesitation in rejecting this conspiracy theory not least because the whole matter came to light because of the actions of the claimant himself. Again however the raising of these matters put the respondent to the trouble of investigating them and preparing their defence to a completely unfounded allegation.

51. On the matter of the telematics data itself, I recorded that: "The claimant seemed incapable of reflecting objectively on the facts in this case, even in hindsight. For example, he was encouraged by his union to focus on the telematics data, but this was a technical argument. This was not least because, as Mr Beardmore said, he relied not only on the information from the telematics data, which did not corroborate the claimant's position but supported the allegations concerns, but also the claimant's late admissions. The claimant's insistence that the use of telematics in the procedure was inadmissible was unsustainable. Yet the claimant was still focussing on detail at this hearing regarding the counting of minutes which he claimed to have worked over hours due, maintaining his position in the face of the evidence and even at this stage asserting that he had not claimed for overtime he had worked".

52. The claim that the use of telematics in such circumstances was a breach of DPA was clearly unsustainable. I agreed with Mr Turnbull that this focus on telematics served to distract from the key issues. This was not least because it was initially being used to verify the claimant's claim for over time when there was a lack of clarity about whether it had been authorised. By the time of the hearing he was still insisting on the telematics defence and he seemed to fail to appreciate that this was ultimately an irrelevant defence given that he had admitted what it had proved. Again, the respondent was unnecessarily put to the trouble of researching and addressing this point at the hearing.

53. The claimant also argued in the hearing that he was forced through intimidation to admit to the wrong doing. On this matter, I recorded the following in the judgment: "I did not accept that the fact finding meetings were conducted "like an interrogation". The claimant was accompanied by experienced trade union representatives. I noted that the first fact finding meeting was adjourned to accommodate the claimant's needs".

54. There was no mention of this concern at the appeal. Quite to the contrary the first fact finding hearing had been adjourned because he was upset. I was very much alert to the significant of the fact that the claimant was accompanied by very experienced trade union representatives in these meetings. I did not agree with Mr Smith that it was not apparent from the notes of these meetings that there was any suggestion that the claimant was forced to confess. Asking the same question twice is not tantamount to intimidation tactics. Again the respondent was required to address this matter for the hearing.

55. The claimant at the hearing also suggested that Mr Beardmore was not independent. I recorded that:

"The claimant argued at this hearing that Mr Beardmore was not an independent decision-maker. It is now argued that this is because he was aware of the details of the claimant's alleged misconduct prior to the disciplinary hearing, including being copied into e-mails sent by Mr Baillie to obtain the telematics data; and was a party to the decision to investigate (relying on the e-mail of 12 December 2018); had been involved in the previous grievances; and had a close relationship with Mr Baillie.

I did not accept the claimant's submission in this regard. The claimant had questioned Mr Beardmore's independence at the time, by e-mailing his PA, to state "Phil is not an independent manager he is s.baillies manager". As Mr Turnbull pointed out in submissions, the matter was not raised again during the disciplinary process. That indicates therefore that the claimant accepted Ms Brook's response having consulted HR and being told that "independent means that the manager who takes any hearing will be independent from the FFI". I did

not accept the claimant's interpretation of the evidence that Mr Beardmore was a party to the decision to investigate as discussed above. I got no impression from the evidence considered in the round that Mr Beardmore was anything other than impartial".

56. This was not therefore a matter which he followed up at the time, but still he raised it in the context of his claim, and the respondent again had to take the time to address this matter.

57. The claimant also argued, during the hearing as well as in the disciplinary, that his actions could be explained by his ill-health. I note in the judgment that I have recorded that: "Mr Turnbull argued in particular that there is no evidence to demonstrate that the claimant's actions were due to any stress he felt at the time. He cross referenced to occupational health reports lodged, which were in any event confidential, which do not reveal any mental health issues. Nor was there any evidence to support the suggestion that his failure to come clean initially was due to his mental health or stress, or any reference to this reasoning during the entire disciplinary process. The claimant's explanations were inconsistent with his mental health being a factor. It was only after he became aware of the evidence against him that he raised this as an issue, so it was reasonable that Mr Beardmore should consider this explanation was not credible. In any event, this is not a discrimination claim".

58. While the claimant does not accept this conclusion, perhaps the most important point to emphasise here is that OH reports were obtained and lodged, which did not reveal any mental health issues at the time. Again the respondent required to deal with this matter in the hearing.

59. Mr Smith relied on an apparent lack of agreement about the minutes to suggest that the claimant's position was reasonable. On the matter of the inaccuracy of the minutes, I have recorded in the judgment that: "the claimant refused to sign the minutes, although the only two concerns he raised (as is clear from the e-mails) were accounted for in the final version. Yet he still continued to dispute their accuracy in this hearing without referencing one single specific inaccuracy. I accepted the minutes as accurate and I got no impression from them or any

other evidence that the conduct of the meetings was inappropriate". The claimant's continued insistence that the minutes were inaccurate was also a matter that the respondent needlessly had to address.

60. Further, the claimant, rather inexplicably, was still arguing at the time of the hearing that there were overtime hours which he had done but not claimed, which he seemed to believe ought to have been "off-set". Again this was a matter which the respondent was put to the trouble of addressing but which had been addressed by Mr Beardmore and which the claimant could not see did not assist him.

61. While considered individually, I may not have concluded that the conduct here reached the threshold of being unreasonable (given the principle that expenses are the exception not the rule), I have come to the view that the claimant's conduct when considered in the round was unreasonable. I have concluded therefore that, having regard to the nature, gravity and effect of the conduct, and considered against all the background circumstances of the case, that the claimant acted unreasonably in his conduct of the case.

Second stage of test – should an award of expenses be made?

62. The respondent sought £30,000 on the basis that they had charged their client in excess of that sum. Following a request by the Tribunal, the respondent lodged a more detailed breakdown of the sums sought (although not an itemised account).

63. Mr Smith made submissions on means and quantum, relying on dicta of Lord Justice Underhill in *Vaughan v LB Lewisham* UKEAT/0533/12, regarding consideration to be given to whether the claimant could afford to pay such an award in future. He submitted that the sum sought for a four day Tribunal involving three witnesses was out of proportion. If an award was made, in Scotland, it could be enforced immediately against the claimant personally.

64. The claimant has lodged a statement regarding his ability to pay with documentary evidence in support. The claimant's position is that he cannot afford to pay the sums sought and that he has no prospect of being able to in future, having been unemployed since he was dismissed with limited prospects of returning to work given his age and health.

65. He advised that his only source of income since dismissal is industrial injuries benefit (paid at £36.40 as evidenced by copy bank statements). As at June 2021 this showed he had savings of £505. He advised that he resides with his wife from whom he says that he is separated but living under the same roof with their two daughters. His wife takes responsibility for all rent and household bills.

66. The claimant also reiterates his view that his mental health was a factor in how he conducted matters both before and after dismissal. He emphasises that his mental health has deteriorated since 2018, not least as a result of the threat of this award and the devastating financial effect this would have on him and his family given their current financial position. He asserts that he would not now be fit for employment due to his mental health. He also advises that he is waiting for an operation to his shoulder. He states that he is not sure when he will be fit for work and due to his age whether he will ever secure alternative employment.

67. While I have decided that the claimant acted unreasonably in the way he conducted the case, I take account of his ability to pay.

68. I note that the claimant is 55 and he has not worked since he was dismissed. Although he states that he is not optimistic about his ability to obtain alternative employment, he has provided no vouching of any attempts to do so. Nor has he provided any evidence to support his claim that he would not be fit for employment due to his mental health.

69. Without further vouching, there was no evidence beyond his own assertions that the claimant will not at any time in the future be able to obtain alternative employment once these Tribunal proceedings are behind him. It is a matter of

judicial knowledge that many job opportunities are opening up following the easing of restrictions caused by the pandemic.

70. However taking account of a) the claimant's current income; b) the claimant's current savings; and c) the real possibility of the claimant obtaining alternative employment of some description, I have come to the view that the claimant should pay the sum of £1,000 towards the respondent's expenses in defending this claim.

71. The claimant's conduct of these proceedings being unreasonable, the claimant is ordered to pay to the respondent the sum of £1,000.

Employment Judge: Muriel Robison
Date of Judgment: 20 August 2021
Entered in register: 27 August 2021
and copied to parties