



EMPLOYMENT TRIBUNALS
London Central Region

11/11/21

Claimant: Mr S Parekh

Respondents: The Governing Body of Chelsea Hospital School
The Royal Borough of Kensington and Chelsea

JUDGMENT

The Claimant must pay the Respondents costs of £3000 by 25/11/21

REASONS

1. On 14 September 2021, I struck out the Claimant's claims for non-compliance with Tribunal Orders, pursuant to rule 37(1)(c) of Sch 1 of the ETs (Constitution & Rules of Procedure) Regulations.
2. Alternatively, I struck them out under rule 37(1)(b) (unreasonable conduct) and under rule 37(1)(e) (fair trial impossible).
3. On 24 September 2021 the Respondents applied for all their costs of this matter, asking that I deal with the application by way of written representations.
4. On 28 September 2021 the Claimant applied for a reconsideration of the decision to strike out his claims, referring to his mental health and other medical conditions.
5. Also on 28 September 2021, I ordered the Respondents to file and serve a schedule of the costs being claimed. This was provided on 30 September 2021, in the sum of £16,040.
6. On 26 October 2021, I refused the Claimant's application for a reconsideration of the strike out and gave him until 9 November 2021 to file any submissions in response to the costs application.
7. I received the Claimant's written submissions opposing the application on 9/11/21. This did not include a request for a hearing and in the circumstances, I do not think a costs hearing is necessary.
8. I am very grateful to Ms C Urquhart of Counsel who has generously assisted the Claimant through the Advocate scheme to make well-drafted and cogent costs submissions.
9. I have already in my strike-out judgment found that the Claimant conducted the litigation unreasonably throughout.
10. In summary the Claimant repeatedly breached the original Directions Order dated 17 December 2020 and the Case Management Order dated 1 April 2021 and I had to issue three Unless Orders against the Claimant dated 1 April 2021, 2 July 2021 and 7 September 2021, the first two of which he eventually complied with but the third of which he failed to comply with, hence the striking out.
11. I am aware that awarding costs in the Employment Tribunal is exceptional.
12. However, the condition in rule 76(1)(a) is met and I must exercise my discretion as to whether or not to make a costs order against the Claimant, and if so in what amount.
13. I have not struck out the claims for lack of prospects or because the claims were spurious or vexatious - the merits of the claims have not been tested.
14. I am unable to make any findings about the alleged data breaches by the Claimant as this has not been tested.

15. However, I accept that the Claimants persistent unreasonable conduct and failure to engage or co-operate in the procedural aspects of the litigation caused the Respondents, a local school and local authority, to waste extra public money in dealing with him.
16. I have taken account of the matters submitted on his behalf notably that he is a litigant in person who has had some mental and other health difficulties and stresses in his personal life. As I have already stated in my reasons for dismissing the reconsideration order, I did not find those matters as a sufficient reason for restoring the claims. However, they are a mitigating factor which I take into account in considering the costs issue.
17. I also take into account that he has already lost his claims without a trial as a consequence of his conduct, and the Respondents have gained the advantage of not having to defend the claims at trial.
18. I also take into account the fact that the Claimant did eventually comply with the first two unless orders and appears to have tried to have comply with the third - his final failure to comply was not caused by reckless disregard or by his having completely ignored the unless order - but by his inefficiency and ineptitude.
19. I have taken into account what I have been told about the Claimant's personal situation, namely that is aged 63 years and is living with his wife on low income. However, he has savings of £3000 and a house worth £600000 with a mortgage of £9602.50.
20. I have considered the Respondents' Schedule of Costs in the sum of £16040. While some queries about this have been raised on behalf of the Claimant, I regard the total amount as reasonable having regard to the work which the Respondents' lawyers had to do, which, as already stated, was no doubt significantly increased as a consequence of the difficulties caused by the Claimant.
21. I have come to the conclusion that the appropriate order is that the Claimant should pay the Respondents £3000 costs, which is a sum which he should be able to pay from his savings without borrowing further, (although for the avoidance of doubt this costs order remains payable by him, whether or not he still has £3000 savings on receipt of it).

J S Burns Employment Judge
London Central
11/11/2021
For Secretary of the Tribunals: Olu
Date sent to parties : 11/11/21
