



EMPLOYMENT TRIBUNALS

Claimant: Mr K Dooley

Respondent: FedEx Express UK Transportation Limited

JUDGMENT FOR COSTS UNDER RULE 76

The claimant is ordered to pay the respondent's costs of £3,200.

Reasons

1. As a result of non-compliance with the Tribunal's Unless Order and no response to the Tribunal's notice to show cause why the claim should not be struck out because it is not being actively pursued, both in the Tribunal's Order sent to the parties on 10 September 2021, the claim was dismissed on 15 October 2021.
2. Apart from issuing the claim, the claimant has not actively pursued her claim at all.
3. The claimant has not corresponded with the respondent in relation to a request for further and better particulars of the claimant dated 8 March 2021.
4. The claimant did not attend the Preliminary Hearing on 9 September 2021, following which an Unless Order was made and a Notice to show cause was issued asking the claimant to give reasons why the case should not be struck out.
5. No response was received.
6. Following non-compliance, Judgment was issued.
7. Thereafter the respondent made a costs application dated 11 November 2021.
8. The Tribunal wrote to the parties asking the respondent to explain its charging structure and for the claimant to provide a statement of means.

9. The respondent explained on 10 January 2022 that it had incurred costs of £2,000 on a fixed fee basis up to and including the Preliminary Hearing and Counsels fees for the Preliminary Hearing of £1,000.
10. The claimant did not respond.
11. In the light of the foregoing, the Tribunal concludes that the claimant's conduct has been unreasonable. She has commenced a discrimination claim against the respondent and done nothing more. She has not engaged with the respondent or the Tribunal at all. She has not complied with Orders and she failed to attend the Preliminary Hearing.
12. Rule 76 (1) provides that a costs order may be made where a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings or the way that the proceedings have been conducted. The threshold for unreasonable conduct in respect of the bringing of the proceedings and/or way the proceedings have been conducted is met.
13. The claimant has not responded to the costs application or provided a statement of means either. The claimant brought the proceedings while still employed and the Tribunal has not been informed otherwise. In those circumstances, the Tribunal also exercised its discretion to make a Costs Order.
14. A Costs Order of £3,200 is made.

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Employment Judge Khalil

11 March 2022