



## EMPLOYMENT TRIBUNALS

<b>Claimant</b>		<b>Respondents</b>
<b>Mr A Levenson Ahmadi</b>	<b>v</b>	<b>(1) Bucket Group LTD (In voluntary liquidation) (2) Sucre London LTD (3) River Group LTD (4) Gregory Max Godik (5) Georgina Godik (6) Patricia Godik (7) Zeev Godik</b>

**Heard at:** London Central (By CVP remote videolink)

**On:** 14 July 2022

**Before:** Employment Judge Brown

### Appearances

**For the Claimant:** In Person, accompanied by his mother Ms L Levenson  
**For First Respondent:** Did not attend and was not represented  
**For Respondents 2 - 7:** Mr Z Malik, Solicitor

## COSTS JUDGMENT

The judgment of the Tribunal is that:

1. No order for costs is made against the Claimant.

## REASONS

### Background

1. In joined claims, claim number 2207261/2021, presented on 16 November 2021, claim number 2201524/2022 presented on 27 March 2022 and claim number 2201501/2022 presented on 25 March 2022, the Claimant brought complaints of ordinary and automatic unfair dismissal, notice pay, holiday pay, unlawful deductions from wages, failure to pay the National Minimum Wage, a redundancy

payment, breach of contract, age discrimination and disability discrimination against all the Respondents.

2. At an Open Preliminary Hearing on 14 July 2022 the Claimant withdrew his age discrimination complaints.
3. At the same hearing, I decided that the Claimant's employer, at all material times, had been Bucket Group Limited, the First Respondent. I struck out the complaints of Unfair dismissal/Notice Pay/Holiday Pay/Wages/Breach of Contract/Failure to pay National Minimum Wage/Failure to Pay Redundancy Payment against all the other Respondents. Those complaints against them had no reasonable prospects of success, because they could not be brought against anyone who was not the Claimant's employer.
4. I also struck out all the Claimant's complaints of disability discrimination/discrimination arising from disability, against all Respondents, because they had no reasonable prospects of success.

### **The Application for Costs**

5. Respondents 2 – 7 then made an application for costs.
6. They did so on the following grounds:
  - a) The Claimant's conduct has been unreasonable and/or vexatious in pursuing the entire Godik family.
  - b) The Claimant had continued to pursue his money claims following the PCMH on 29 March 2022.
  - c) The Claimant has now made a claim to the RPO and been paid some moneys, but still maintains claims against the Respondents.
  - d) The time and cost of this litigation is significantly out of proportion of any material gain to the Claimant, given: a. The volume of disclosure of irrelevant material; and b. The constant flow and volume of irrelevant and lengthy correspondence sent by the Claimant to the ET.
  - e) The Claimant has repetitively issued claims containing the same complaints, resulting in the Respondents having to incur costs on each one.
  - f) The discrimination claims are out of time, lack merit, and are not supported with any evidence.
7. Respondents 2 – 7 had sent a costs warning letter to the Claimant on 1 April 2022 saying that his claims against them had no reasonable prospects of success because:
  - a) The Claimants money claims were only properly brought against his employer, Bucket Group Limited. EJ Isaacson had said, at a Preliminary Hearing on 29 March 2022, at paragraph 18: "I explained that a limited company has limited liability and if a company is in voluntary liquidation then there will be very little funds to pay any creditors. The claimant will need to show more than the second and third respondents were shareholders in the first respondent to be liable. The named individual respondents could be liable for any potential discrimination claim but would not be liable for his claim for unfair dismissal and

his other money claims". From the Respondents' solicitor's notes of the PCMH, the Claimant was told by the Tribunal in relation to his money claims that: "Shareholding is irrelevant" and "...you have to persuade another judge and you have no hope."

- b) The age discrimination complaints had no reasonable prospects of success because no employees from Bucket Group Limited were employed at Sucre Limited and the Claimant would not shift the burden of proof to the Respondents as set out in *Madarassy v Nomura International PLC* [2007] IRLR 246.
  - c) The disability discrimination complaints regarding a failure to pay wages were out of time. Regarding dismissal, the obvious reason for his dismissal was that the Bucket Group Limited was going into liquidation
8. At the hearing on 14 July 2022, I did decide that the Claimant's employer was Bucket Group Limited and that his unfair dismissal and money claims were properly brought against it alone. The Claimant withdrew his age discrimination complaint at the hearing, and not before the hearing. I decided that all the discrimination complaints should be struck out, including because the complaints of unpaid wages were out of time and that the Claimant had no reasonable prospect of succeeding in a disability claim in relation to his dismissal when he agreed that the restaurant had ceased trading that no employees remained in employment.
  9. I therefore dismissed his claims for substantially the same reasons as, either, EJ Isaacson had warned the Claimant, or the costs warning letter had warned him, that his claims would not succeed.
  10. The Claimant said, in response to the costs application, that he had done a lot of work and sent correspondence to try to get what he was owed. He said that the Respondents had made it impossible to get money from RPO – the insolvency practitioner was wrong about the Claimant's holiday pay and the Claimant's unpaid wages. The Claimant said he had not even received a redundancy payment.
  11. The Claimant said that he had tried to get legal help through his trade union but had been unable to.
  12. The Claimant told the Tribunal, during the Open Preliminary hearing, that it had seemed like the Bucket Seafood business was transferring to Soho because a sign in the window of the Bucket Seafood premises said that a restaurant was opening in Soho. In the bundle for the Tribunal there was a photograph of a sign in the Bucket Seafood premises, saying "Closed for Training New Opening in Soho." P246. In evidence at the Tribunal at the OPH, Georgina Godik agreed that the Bucket Seafood premises had been used to train employees for Sucre Limited.
  13. On the findings of fact at the OPH, Bucket Group Limited was established and managed by Georgina Godik. It is a private company, limited by shares. River Walk Group Limited is the largest shareholder in Bucket Group Limited with 48% ownership. River Walk Group Limited is an entity set up to invest in hospitality businesses. It is owned 35% by Patricia Godik, 35% by Zeev Godik, 10% by Gregory Godik, 10% by Jack Godik and 10% by Georgina Godik. Its sole director is Patricia Godik. River Walk Group Limited has made one investment, its holding in Bucket Group Limited. Sucre London Limited is owned and controlled by

Addmind group. Zeev Godik, is the Chairman of Addmind. Gregory Godik was contracted to project manage the opening of the Sucre London Site.

14. It was not in dispute that the Claimant was a person of very little means, with no assets and who was not employed.

**Relevant Law**

15. *Rule 76 Employment Tribunal Rules of Procedure 2013* provides as follows:

*“76 (1) A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that:*

*(a) a party ... has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that proceedings or part have been conducted; or*

*(b) any claim or response had no reasonable prospect of success.”*

16. The Tribunal must consider making an order for costs where it is of the opinion that any of the grounds for making a costs order has been made out.
17. Following *Hayden v Pennine Acute NHS Trust* UKEAT/0141/17, the Tribunal should take two-stage approach:
  - a) Consider whether any of the grounds in *r76(1)(a)* have been established;
  - b) Consider whether, in all the circumstances of the case, a costs award is merited, *Ayoola v St Christopher’s Fellowship* UKEAT/0508/13.

**Unreasonable Conduct**

18. The failure by the Claimant to “address their minds to [the prospects]”, or to engage with a Respondent’s costs warning letter, which would have led them to an earlier assessment of the merits of their claims, can justify a costs award, *Peat v Birmingham City Council* UKEAT/0503/11/CEA.

**Exercise of Discretion**

19. In *Barnsley Metropolitan Borough Council v Yerrakalva* [2011] EWCA Civ 1255 Mummery LJ stated (at para 41) that “the vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it and what effects it had”.
20. in deciding whether to award costs on the basis that a claim had no reasonable prospect of success, the ET can take into account what the party knew or ought to have known if 'he had gone about the matter sensibly'. In *Keskar v Governors of All Saints Church of England School* [1991] ICR 493 the EAT said (Knox J): 'The question whether a person against whom an order for costs is proposed to be made ought to have known that the claims he was making had no substance, is plainly something which is, at the lowest capable of being relevant'. The fact that there was nothing in the evidence to support the allegations involved an assessment of the reasonableness of bringing the proceedings, and this 'necessarily involved' a consideration of the question whether the claimant ought to have known that there was no such supportive material.

21. It is usually appropriate for a litigant in person to be judged less harshly in terms of his or her conduct than a litigant who is professionally represented, given that “a lay person may have brought proceedings with little or no access to specialist help and advice. This is not to say that lay people are immune from orders for costs: far from it, as the cases make clear”, *AQ Ltd v Holden* [2012] IRLR 648, EAT at [32]-[33].
22. A party’s ability to pay is also a factor which the Tribunal may consider in deciding whether to make a costs order and, if so, in what amount (*ET Rules 2013, rule 84*).

### **Discussion and Decision**

23. On my findings of fact at the Open Preliminary Hearing on strike out, all the Godik family owned shares in River Group Limited, which in turn invested in the Claimant’s employer, Bucket Group Limited. Further, Sucre Limited was owned by a company of which Respondent (7) Zeev Godik was the Chairman. The opening of Sucre Limited was project managed by Respondent (4) Gregory Max Godik. Yet further, the premises at which the Claimant had been employed were used by Sucre Limited to train staff.
24. I considered that a sign in the window of the Bucket seafood restaurant suggested that Bucket seafood restaurant was opening in Soho – albeit that the sign was ambiguous; “Closed for Training New Opening in Soho.” P246.
25. The Claimant is a lay person. He was unable to obtain legal advice from his union.

### **Not Unreasonable to Present Complaints Against All Respondents**

26. I considered that a lay person, without access to legal advice, might well reasonably conclude from those facts that the Respondents’ businesses were all interlinked. Due to the sign in the window of the Bucket seafood restaurant and the fact that training for Sucre Limited did take place at the Bucket seafood restaurant, a lay person might reasonably conclude that the same person owned both Sucre Limited and Bucket Group Limited. I considered that a lay person might well be confused as to the correct legal relationships between Sucre Limited, Bucket Group Limited and River Group Limited and the individual Respondents.
27. It was not in dispute that the Claimant’s discrimination complaints were properly brought against 4 of the Respondents; (1) Bucket Group LTD (In voluntary liquidation), (2) Sucre London LTD, (4) Gregory Max Godik, (5) Georgina Godik.
28. Given that Sucre London Limited and Gregory Godik and Georgina Godik were all proper Respondents to the discrimination claims and the legal relationships between all the Respondents might not have been easily understood by a lay person, I did not consider that the Claimant acted unreasonably, at the outset, in presenting his complaints against all the Respondents.
29. I noted that the Claimant’s complaint 2201524/2022 presented on 27 March 2022 also contained a complaint of automatic unfair dismissal because of part time worker status. It seemed to me that that was a new claim. I also noted that 2207261/2021, presented on 16 November 2021, preceded the date when the Claimant says that he was dismissed. On the facts at the OPH, Georgina Godik sent the Claimant a further letter about his dismissal on 3 December 2021. I did not consider that it was unreasonable for the Claimant to have presented more than one claim, bringing different complaints and clarifying his complaints.

**Not Unreasonable to Pursue Unfair Dismissal / Money Complaints to OPH**

30. I considered whether the Claimant had acted unreasonably in pursuing his claim against all Respondents following the costs warning letter and after EJ Isaacson's hearing and her comments about his unfair dismissal and money claims.
31. It was clear to me that the Claimant had looked for evidence about the connections between the Respondents. He had not conducted the litigation carelessly, but had taken a serious attitude to it. He had taken photographs of the Bucket seafood restaurant premises, with the sign in the window which appeared to link Bucket Group with Sucre Limited. I considered that it was reasonable for him to believe that Sucre London Limited and Bucketgroup Limited were not as separate as the Respondents were contending and for him to want to test that at a hearing.
32. I did not conclude that the Claimant was unreasonable in seeking a determination, at a hearing, of the true Respondent to his unfair dismissal and money complaints.
33. Even if I had concluded that the Claimant acted unreasonably in pursuing his unfair dismissal and money complaints after EJ Isaacson's PHC and the costs warning letter, I would not have exercised my discretion to award costs against him. Rs 2-7 would still have had to be represented at the Open Preliminary Hearing regarding the discrimination complaints. It was not clear to me that any significant additional costs had been incurred by them in attending the OPH in relation to the unfair dismissal / money complaints, as well as the discrimination complaints.

**Pursing Discrimination Complaints to OPH**

34. EJ Isaacson did not warn the Claimant about the merits of his discrimination complaints.
35. The Respondents did not warn the Claimant about the merits of all his disability discrimination complaints.
36. The gist of his complaints about Sucre Limited failing to employ him was that he had been completely ignored by Sucre Limited and Georgina and Gregory Godik, in relation to employment there. As a lay person, he was not unreasonable in his perception. I did not see, from the correspondence, that Georgina Godik explained to the Claimant why he could not be employed at Sucre, specifically. She simply said there were no associated employers. Given the misleading sign in the window of Bucket seafood, he had reason to disbelieve that.
37. Further, while the Claimant did not make a formal application to Sucre London, he did respond to an Instagram post. I accepted that a lay person might not appreciate the difference between an application by email and a reply to an Instagram post, when they had seen the potential vacancies on Instagram.
38. On these facts, he might reasonably have sought a non-discriminatory explanation for the failure to offer him work at Sucre London Limited.
39. He was not unreasonable in pursuing his complaints regarding the failure to offer him work at Sucre to the OPH.
40. His two other disability discrimination complaints were in relation to dismissal and in relation to the underpayment of wages. I decided that he made no discrimination complaint about his furlough pay and, therefore, that his complaint was about a practice of underpayment which ended in March 2020. Nevertheless, I considered

that a lay person might reasonably believe that it was arguable that they had until the end of their employment to complain about discriminatory underpayments, where they had not been able to get legal advice about time limits.

41. I did conclude that the Claimant was unreasonable in pursuing his complaint of discriminatory dismissal, to the OPH. If he had turned his mind sensibly to the matter, he must have known that all employees had been dismissed from the restaurant when it stopped trading. He must have known that there was no reasonable prospect of a Tribunal finding that he had been treated differently to other employees - who were also dismissed from Bucket Group Limited.
42. However, given that the Claimant was reasonable in pursuing some of his other complaints to the OPH, I would not exercise my discretion to award costs against him in relation to the OPH. I was not satisfied that significant additional costs were incurred in relation to the complaints he pursued unreasonably.

**Age Discrimination**

43. The Claimant withdrew his complaints of age discrimination at the OPH. He did so at the hearing and not before. He was unable to provide any details of any comparators at all, even for his surviving disability discrimination complaints. I considered that the Claimant acted unreasonably in pursuing his age discrimination complaints after the Respondents' costs warning letter. However, as the Claimant was reasonable in pursuing some of his other complaints to the OPH, I did not exercise my discretion to award costs against him in relation to his age discrimination complaints.
44. Accordingly, I did not order the Claimant to pay any of the Respondents' costs.

**EMPLOYMENT JUDGE BROWN**

**On: 14 July 2022**

**SENT TO THE PARTIES ON**

**19/07/2022**

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**FOR SECRETARY OF THE TRIBUNALS**