



# EMPLOYMENT TRIBUNALS

**BETWEEN**

**Claimant**

**AND**

**Respondents**

MS ILKAY CETIN

(1) MRS MELANIE GRIFFITHS;  
(2) MR STEPHEN GRIFFITHS

**JUDGMENT**

The Tribunal rejects the applications of both parties that costs be awarded in their favour.

## REASONS

1. The Claimant (C) brought various claims against the Respondents (R) on 21 January 2020 of discrimination, protected disclosure detriment and unfair dismissal.
2. At a contested OPH on 10 June 2021 the tribunal decided that it did not have jurisdiction to hear (and therefore struck out) all claims except C's complaints of race discrimination, harassment, victimisation and protected disclosure detriment regarding R reporting C to the police.
3. Those claims were adjudicated following a full hearing, and a written judgment and reasons sent to the parties in June 2022. One claim of victimisation was upheld; C's other claims were dismissed. An award for injury to feelings was made.
4. In its reasons the Tribunal said this:

*... the majority of the evidence (documentary and witness statements) produced by both parties to the tribunal, was not directly relevant to the claims identified as proceeding by the tribunal on 10 June 2021 and as clarified in the List of Issues on 22 July 2021. Instead, both parties attempted by their evidence to demonstrate in as much detail as they could muster the supposed unreliability and bad faith of the other party. ... Put shortly, the large majority of the evidence of the parties was not relevant to the claims/issues we had to determine.*

5. Subsequently, both parties have made applications for costs/preparation time orders pursuant to r. 76 of the ET Rules on the basis that the other party acted unreasonably in bringing and/or conducting the proceedings.
6. C's application complains of institutional discrimination including by this tribunal in rejecting some of her complaints and more generally. As against R, C's application is primarily based on assertions that: R made false reports about C to the police after the claim had been issued; R had acted unreasonably in refusing JM and then in connection with a JM and in refusing to negotiate through ACAS; R had previously tampered with documents not before the tribunal at the final hearing; R's legal representatives had acted unreasonably in part by not complying with directions

relating to the bundle, in part by not on occasion copying C into correspondence and in part by giving negligent legal advice;

7. R's application is primarily based on assertions that: C brought several claims which were struck out; C unreasonably caused the adjournment of PH's; C made unreasonable allegations about R to the tribunal and externally including to the police; C unreasonably tried to get Mrs Griffiths' name amended to her maiden name; C tried to record previous hearings; C published material related to the case, including disclosed documents, on her website in order to prejudice R and a potential witness for R; C reported R to the police and unreasonably included that police report in disclosure.

### **The Law**

8. The relevant part of rule 76 reads:

*(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 (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;*

9. Employment tribunals are not, in general, a cost-bearing jurisdiction. It is unusual for a party to be awarded costs; it is even more unusual when each party has won and lost in respect of different issues. It would be rare, perhaps unique, for costs to be awarded in a case where not only did each party win and lose different claims and issues, but the tribunal was critical of both parties in respect of their approach to the evidence and arguments (see para 4 above).
10. In all events, the cases make clear that a tribunal's discretion to award costs for unreasonable conduct is very wide; and, as it was put by Mummery LJ in **Barnsley Metropolitan Borough Council v Yerrakalva** [2011] EWCA Civ 1255, [2012] IRLR 78, para 42: "*a costs decision in one case will not in most cases pre-determine the outcome of a costs application in another case: the facts of the cases will be*

*different, as will be the interaction of the relevant factors with one another and the varying weight to be attached to them.*” (emphasis added).

### **Discussion**

11. The tribunal has no hesitation in rejecting both parties’ applications for costs.
12. Some of the criticisms made by C are not matters the tribunal has jurisdiction to consider in that context. In that category is her complaint of institutional discrimination by this tribunal; and her assertions that: R had acted unreasonably in refusing JM and then in connection with a JM and in refusing to negotiate through ACAS; and that R’s legal representatives had acted unreasonably by giving negligent legal advice.
13. Some of the criticisms made by R concern matters which, if they were to be raised at all to support a costs application, should have been raised at the time of earlier hearings to which they relate. In that category are their assertions that C unreasonably caused the adjournment of PH’s; and that C tried to record previous hearings.
14. The remainder of the complaints made by both sides fall into the category of assertions that the other party has gone out of their way to pursue a vendetta against them by making complaints to the police and, in C’s case, by publishing material on her website and contacting R’s employers.
15. The tribunal has no doubt that some, perhaps all of those actions complained of were unreasonable, in the sense that they were motivated in large part by a desire to damage the other party. However, the tribunal does not consider that those actions are properly to be described as done in *“the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted”*. Further, although it might be said that C has sought to pursue her vendetta against R with somewhat more intensity than R has done so against C, there has been fault on both sides.
16. In the circumstances, the tribunal considers that it would be entirely unjustified for it to exercise a discretion to make an award for costs in this case. Further it was able to

reach that decision on the basis of the detailed written submissions of the parties without the need to convene a further hearing.

Oliver Segal QC

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Employment Judge

10 September, 2022

JUDGMENT & REASONS SENT TO THE PARTIES ON

10/09/2022