



EMPLOYMENT TRIBUNALS

Claimant: Mr Z Xiao

Respondents: 1. Kate Boddy
2. University of Exeter

Exeter, in Chambers

On: 26 September 2022

Employment Judge Smail

COSTS JUDGMENT

1. The Claimant must pay the First Respondent, Kate Boddy, costs in the sum of £1,650 within 14 days.
2. The Claimant must pay the Second Respondent, the University of Exeter, costs in the sum of £4,000 within 14 days.
3. The Claimant's application for costs dated 11 August 2022 is dismissed.

REASONS

1. I have before me: -
 - (a) the First Respondent's application for costs dated 21 July 2022;
 - (b) the Second Respondent's application for costs dated 26 July 2022;
 - (c) the Claimant's response to the applications dated 11 August 2022; and
 - (d) the Claimant's application for costs of 11 August 2022.
2. Rule 76 of the Employment Tribunal Rules of Procedure 2013 deals with when a costs order may or shall be made:
 - (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; or

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

3. For the reasons set out in the Judgment and Reasons sent to the parties on 14 July 2022, these claims brought by the Claimant had no reasonable prospects of success and bringing them at all was wholly unreasonable. The Employment Tribunal was simply the wrong forum. I have discretion to order costs, accordingly, and I exercise that discretion to make awards. These Respondents should not have had to deal with these claims.
4. Furthermore, the Claimant was written to by solicitors on 16 December 2022 and on 11 January 2022 pointing the above out to him. He carried on regardless. He did not even consult his own employment solicitor. That was further unreasonable behaviour.
5. The Claimant's application for costs is baseless. All evidence put in by the Respondents was admissible and relevant.
6. I have had regard to the Claimant's apparent means. He is in good employment as a lecturer at Essex University. There is no basis for reducing the costs owed to Mrs Boddy. I limit the costs award in favour of the University to the costs of and associated with the hearing on 21 June 2022. I assess those as £4,000. That is only part of the costs incurred by the University.
7. If the Claimant can only pay costs by instalments, he should make reasonable offers to the Respondents. Otherwise, the enforcement procedures of the County Court are available to the Respondents.

Employment Judge Smail
Date: 26 September 2022

Judgment and Reasons sent to the parties: 04 October 2022

FOR THE TRIBUNAL OFFICE