



EMPLOYMENT TRIBUNALS

Claimant: Ms D McCarthy

Respondent: Saint Gobain Building Distribution Limited

Heard at: On the Papers **On:** 11 October 2022

Before: Employment Judge Hena

Representation

Claimant: On the Papers

Respondent: On the Papers

JUDGMENT

The Tribunal makes the following decision in relation to the costs application made by the Claimant following a liability and remedy hearing on 4 and 5 April 2022:

1. The claimant's application for costs made on 2 June 2022 pursuant to rule 77 of the Employment Tribunal Rules of Procedure succeeds.
2. The respondent is ordered to pay the claimant £15,000 towards her legal costs.

REASONS

Unreasonable Conduct

1. The Tribunal needed to consider Rule 76 (1) (a) and (b) of the Employment Tribunal Rules of Procedure when considering whether to award costs. The first limb of the test was assessing if the respondent behaved in an unreasonable way in their conduct of the proceedings.
2. In assessing this I have considered the following:
 - (i) The respondent is a well-resourced company with a HR department.
 - (ii) The respondent failed to produce any witness statements in this matter to support their position.
 - (iii) The respondent failed to engage with the Tribunal when directed to file

- evidence.
- (iv) The respondent produced no bundle, and it was left for the claimant to produce this.
3. Given the findings in paragraph 2 it is clear that the respondent failed to conduct the proceedings in a reasonable manner.

Prospect of Success

4. The second limb of the test requires the Tribunal to assess whether the respondent had a reasonable prospect of success in their response to the claim. Given the respondent's failure to engage with the claim and produce any evidence to support their position it has been found that the respondent could not have had a reasonable prospect of success.

Notice of Costs Application

5. The Tribunal is satisfied the respondent was copied into their application for costs on 2 June 2022 and were put on notice on 5 April 2022 of the intention to do so.
6. Further to this the Tribunal sent correspondence to the respondent on 27 September 2022 requesting they provide any response to the application by 30 September 2022. They have failed to respond to the application neither consenting nor opposing the application for costs.

What Costs Should be Awarded

7. The schedule of costs provided by the claimant has been broken down and amounts to £29,024.40 including VAT. The claimant has agreed, given the costs threshold, to reduce this to £15,000. This sum appears reasonable considering the work undertaken by the claimant on this matter.

Employment Judge **Hena**

Date: 11 October 2022