



EMPLOYMENT TRIBUNALS

Claimant: Mrs M French

Respondent: Swalecliffe Pharmacy Ltd

Heard at: Decided on the papers On: 19/1/2023

Before: Employment Judge Wright

COSTS JUDGMENT

The respondent's application for wasted costs against the respondent under Rule 80 fails and is dismissed.

REASONS

1. At the hearing on 26/9/2022, the claimant's claim of constructive unfair dismissal failed and was dismissed. The claimant withdrew her other claims of: notice pay; holiday pay; arrears of pay; failure to provide a written statement of employment terms; and failure to provide itemised pay statements.
2. The respondent made an application for wasted costs against the claimant's representative under Rule 80 on 11/11/2022.
3. The claimant's representative confirmed he is acting in pursuit of profit on 21/10/2022. He is a consultant and his company is registered as a Claims

Management Company and is regulated by the Financial Conduct Authority.

4. As such, the claimant's representative does not benefit from legal advice privilege, but litigation privilege does apply.
5. As that privilege has not been waived, it is not possible to ascertain whether or not the claimant's representative was acting upon her advice. A representative should not be held to be acting improperly, unreasonably or negligently, simply because he acted for a party whose claim was doomed to fail (Ridehalgh v Horsefield 1994 3 All ER 848).
6. It is not therefore possible to know whether or not the claimant's representative was acting on instructions or not and therefore, no costs order is made against him.
7. Finally, the respondent's cost schedule lack particularisation. As it is not a costs breakdown, it is insufficient to set out what costs were wasted due to the claimant's representative's conduct.

Employment Judge Wright

19/01/2023

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