



EMPLOYMENT TRIBUNALS

Claimant: Ms C Hilton-Tomlinson

Respondent: No Ordinary Designer Label Limited

JUDGMENT

The claimant's application of 1 March 2023 for reconsideration of the judgment with written reasons sent to the parties on 15 February 2023 is refused.

REASONS

1. The claimant has made an application for reconsideration of the tribunal's judgment sent to the parties on 15 February 2023, in which she was ordered to pay a contribution to the respondent's costs in the sum of £9691.20 ("the costs judgment").
2. The basis of the application is that
 - "1. The Law has incorrectly been applied on the decision of my conduct of being Vexatious and unreasonable.*
 - 2. Employment Judge Heath did not follow the correct procedure, and this affected the decision,*
 - 3. The decision was biased towards the Respondent."*
3. In terms of the law, the claimant has set out extracts from the Civil Procedure Rules 1998 ("CPR") CPR 44, and Practice Direction (Employment Appeal Tribunal - Procedure) 2018. Neither of these applies in the Employment Tribunal.
4. The claimant sets out that she did not refuse to attend, but that she was unable to attend through work, and that she could have been asked to produce written submissions.
5. The procedure prior to the costs hearing is set out in the costs judgment, and in particular the claimant indicated that she attached her defence to the costs

application (paragraph 5), the claimant was offered the chance to apply for a postponement (paragraph 8) and she indicated that the hearing should go ahead in her absence (paragraph 9).

6. The claimant indicates that the respondent's "orders" (I assume she means costs schedules) are fraudulent as the hourly rates are different (£350 in the first costs application and £360 in the second). The difference alone is not suggestive of fraud, and while no evidence was given about why the rates are different, the tribunal is aware of other cases in which solicitors have increased their charge out rates.
7. The claimant goes on to compare her costs order with that of another litigant in a case in the tribunal. This is not an appropriate comparison. The circumstances of that case (in terms of the costs incurred, and the nature of the unreasonable conduct) are different.
8. In the section headed "The Facts" the claimant sets out her account of how the conduct of the litigation happened in respect of the hearing bundle, the witness statements and the list of issues.
9. It appears that the claimant is inviting the tribunal to draw different conclusions to the ones we drew from the evidence that was presented to us at the costs hearings. We have already examined this evidence and drawn the conclusions which we found appropriate. The narrative the claimant constructs in her application for reconsideration does not accord with our conclusions on the evidence. She has missed out some of the material we relied on, and given a different interpretation to some of the evidence which we did rely on. There is nothing here which would persuade us to an alternative conclusion to the one we reached.
10. The final part of the application relates to the financial impact of the costs order. The tribunal points out the authorities on ability to pay. The claimant was given the opportunity to apply for an adjournment, advised by the respondent's solicitor that some evidence of means would be appropriate, and the claimant indicated that the hearing should proceed in her absence. The claimant has put forward assertions in her application and in a spreadsheet about her means. The respondent has not had the opportunity to test any of this by cross-examination of the claimant or in submissions. It is evidence that could have been provided to the hearing and was not.
11. In all the circumstances, looking at the matters put forward by the claimant in her application and accompanying spreadsheet, I consider that there is no reasonable prospect of the original costs decision being varied or revoked. The claimant's application is refused.

Employment Judge **Heath**

4 March 2023 _____
Date

JUDGMENT & REASONS SENT TO THE PARTIES ON

06/03/2023

FOR THE TRIBUNAL OFFICE