



EMPLOYMENT TRIBUNALS

Claimant: Mr P Tchameni

Respondent: Pathway for Care Ltd

COSTS JUDGMENT

On the Respondent's costs application, written representations from the parties having been considered, and the Respondent having requested determination on the papers

It is the judgment of the Tribunal that:

The Respondent's application for costs is refused.

REASONS

1. It is not accepted that the claim had no reasonable prospect of success. The Tribunal found that the Claimant did make a protected disclosure, which the Respondent had disputed. As noted in the Tribunal's reasons, the Respondent adduced very little evidence about the physical intervention training. There was no evidence that the Respondent was "legally obliged to suspend the Claimant" as asserted in the costs application and the evidence about the oversight of the Court of Protection was given for the first time by Mr Warren orally. Further, none of the managers involved in the suspension and investigation were called as witnesses. The protected disclosure occurred less than three weeks before the incident that led to the Claimant's suspension. On the evidence available in the bundle and witness statements it was arguable that the Respondent had responded more harshly to the Claimant because of his protected disclosure. That could have constituted a detriment and, potentially, a breach of the implied term of trust and confidence.
2. Even if the threshold for making a costs order were met, it would not be appropriate to make such an order in circumstances where the evidence adduced by the Respondent was unsatisfactory in some respects and the Claimant was a litigant in person with limited understanding of employment law and Tribunal procedure.

Employment Judge Ferguson

Date: 28 March 2023