



EMPLOYMENT TRIBUNALS

Claimant: Mr O C Uzomah

Respondent: Durham County Council

UPON a reconsideration of the judgment dated 7th December and sent to the parties on 13th December 2022 on the Tribunal's own initiative under rule 73 of the Employment Tribunals Rules of Procedure 2013, and without a hearing

JUDGMENT

1. The claimant's case is reinstated
2. The deposit order is varied as follows:-
The claimant shall pay £375 for each claim as a requirement for pursuing these proceedings.
The sum shall be paid by 23rd May 2023

REASONS

1. This is a reconsideration of the decision to strike out the claimant's claim for failure to comply with a deposit order and to reconsider the deposit order.
2. The claimant was ordered to pay £3000 as a condition of proceeding with his claims. He did not pay that sum and the claims were struck out on 12th January 2023.
3. At the time the decision was taken I was not in possession of the Income and Expenditure of the claimant, as referred to in paragraph 3 of the original Order. It has now been brought to my attention that the claimant's solicitors did send the information via an email on 20th November 2022 and resent it on 3rd December 2022. I have therefore reconsidered the strike out and the amount of the deposit order itself.
4. I note that the only information sent related only to the claimants income. A request was made, on 9th February 2023 for the claimant to provide further information in relation to any assets or savings he possessed and whether there was any other person contributing to the household income. A second request was made on 4th April 2023. In reply to the second the claimant raised an objection to my involvement in the case and applied for me to recuse myself on the basis that I had previously lied about receipt of the emails. I have dealt with this separately.

5. The claimant has an income of £2108.20 per month. His outgoings are £2090 per month. He has an excess of £18 per month. I have not been provided with any information as to any assets the claimant owns. The claimant has now moved from his rental property in the northeast of England to a property in London. I have no information as to whether the claimant owns this property outright or is paying a mortgage or is renting the property. I have not been provided with any information as to savings the claimant may have nor whether there is another person who contributes to the household.
6. I note that the purpose of a deposit order is to identify claims with little prospect of success and to discourage pursuit of such claims. *Hemdan v Ishmail and anor* 2017 ICR 486. Having said that a deposit order has to be one that is capable of being complied with. A party without the means to or ability to pay should not be ordered to pay a sum that he is unlikely to be able to raise.
7. I take into account that the cost of living is higher living in London. I also take account of the fact that the claimant has failed on two occasions to comply with requests for his financial information. I draw an inference from the fact that the claimant has not provided the information requested.
8. The claimant's excess income is low, however I cannot rule out that the claimant has savings or another person is contributing to the household. I must balance that against discouraging the claimant from pursuing his claims because they are weak.
9. In conclusion I will reduce the amount of the deposit to £375 per claim. That is a total of £1500. The sum to be paid by 23rd May 2023.

Employment Judge AEPitt

18 April 2023