

EMPLOYMENT TRIBUNALS

Claimant: Mr D Taheri (using the alias James Davidson)

Respondent: Nuestra Familia Restaurants Ltd

Heard at: Manchester On: 2 June 2023

Before: Regional Employment Judge Franey

(sitting alone)

REPRESENTATION:

Claimant: Did not attend

Respondent: Miss S Clarke, Counsel

JUDGMENT

- 1. The claimant in these proceedings is in truth David Taheri and the title of the proceedings is amended to record that fact.
- 2. The claim was a nullity because it was presented in breach of a Restriction of Proceedings Order made pursuant to section 33 of the Employment Tribunals Act 1996 by the Employment Appeal Tribunal in a judgment dated 25 February 2022.
- 3. If not a nullity, having been withdrawn by the claimant on 15 March 2023, the claim is dismissed.
- 4. The claimant acted vexatiously and unreasonably in pursuing an application for employment with the respondent in 2023, and in bringing these proceedings.
- 5. The claimant is ordered to pay the costs of the respondent in the sum of £4,136.00.

REASONS

Introduction

- 1. On 15 February 2023 a claim form was presented by "James Davidson" alleging disability discrimination by the respondent in the refusal of an application for employment made in January 2023.
- 2. The claim was served and listed for a case management hearing on 25 May 2023, together with a three day final hearing between 30 October 1 November 2024.
- 3. The response form was filed on 15 March 2023. It applied for the claim to be struck out, and alleged that the claimant was in truth David Taheri, who had been the subject of a Restriction of Proceedings Order ("RPO") made pursuant to section 33 of the Employment Tribunals Act 1996 by the Employment Appeal Tribunal ("EAT") in February 2022.
- 4. The email attaching the response form and drawing attention to the applications to strike out the claim and for a costs order was copied to the claimant. It was sent shortly before 2.00pm on 15 March 2023. It attached copies of the "chatbot" exchanges to which I refer below.
- 5. A few minutes after 4.00pm that same day the claimant emailed the Tribunal to withdraw his claim. That brought it to an end under rule 51, save in relation to costs.
- 6. The respondent confirmed that it did intend to pursue the costs application despite the withdrawal, and it was listed in person on 2 June 2023. The correspondence leading up to the hearing is summarised below.
- 7. The claimant did not attend the hearing. The respondent was represented by counsel, and its Human Resources Manager, Kayleigh Lee, also attended. Ms Lee gave sworn oral evidence verifying the documents placed before me.
- 8. Those documents were contained in a bundle which ran to 120 pages. Any references to page numbers in these Reasons are a reference to that bundle.
- 9. In addition I had a written submission from Miss Clarke running to six pages, and a three page document setting out the costs which had been incurred. I heard oral submissions from Miss Clarke before making my decision.
- 10. The claimant had received by email the application for costs with the chatbot exchanges attached, the written submission and costs schedule, and the bundle of documents. He did not make any written representations save for an email of 26 May 2023 which I summarise below.

Findings of Fact

11. In view of the unusual nature of this case I must set out in detail the findings of fact I made on the basis of the evidence before me.

Taheri application November 2021

- 12. In November 2021 David Taheri applied for a role with the respondent, which operates a number of McDonald's restaurants under a franchise arrangement.
- 13. His application form appeared at pages 104-108. Mr Taheri gave his address as 50 Queensway. The mobile telephone number he gave ended in the digits 1947. It mentioned that he had worked in a Burger King restaurant in San Jose in the 1980s (page 105).
- 14. At interview he disclosed that he had prostate cancer. He was rejected for the position because of his behaviour in interview, including telling the interviewer Ms Green to "shush" on two separate occasions whilst he turned off his two mobile telephones, and asking for free food.
- 15. He went through early conciliation with ACAS and a certificate was issued by ACAS on 8 December 2021. No Employment Tribunal complaint was presented.

RPO February 2022

- 16. Following a hearing on 3 February 2022, Mr Taheri was declared a vexatious litigant by the EAT in a Judgment of the President, Mrs Justice Eady, handed down on 25 February 2022. The transcript appeared at pages 63-103.
- 17. Mr Taheri was made the subject of an indefinite RPO, meaning that he would require permission from the EAT to institute any further proceedings in the Employment Tribunal. He would be free to do so where "the proposed matter does not amount to an abuse of process and where there are reasonable grounds for the proceedings".
- 18. The EAT Judgment set out the history of more than 40 claims which had been pursued since 2012, many of which featured an allegation of disability discrimination based on him having prostate cancer.
- 19. The EAT also referred in paragraph 93 to examples of cases where he had filed claims which he proceeded to withdraw before any determination on the merits. At paragraph 98 the EAT identified a pattern of instituting proceedings seeking substantial sums for alleged acts of discrimination as a means of extracting a nuisance payment from the potential employers involved, and then withdrawing the claim where the respondent refused to countenance settlement.
- 20. In one case (2411529/2018) the EAT noted that there was material to suggest that his conduct at the recruitment exercise was entirely inconsistent with the suggestion that he was genuinely seeking employment.

Taheri Application 10 January 2023

- 21. On 10 January 2023 Mr Taheri applied for employment at the respondent's restaurant in Rawtenstall.
- 22. The application form completed by David Taheri appeared at pages 109-114. It gave his address as 59 Queensway and gave a mobile telephone ending in 1947. The application form said that his referee was Dave Swann, providing an email address and mobile telephone number ending 4302.
- 23. His interactions with the respondent were conducted by means of an online chat function, set up via a McDonald's "McHire" website. The company's interaction during the chat is conducted by a "chatbot" which presents online as a personal job assistant called Olivia. It assists applicants with the process by recognising key words and issuing automated responses.
- 24. Mr Taheri's interactions with the chatbot appeared at pages 39-44. Individual entries were not timed and dated but dates and times appeared at breaks in the exchanges.
- 25. The exchanges began at 4.43pm on 10 January 2023. The role in question was a full-time crew member. Mr Taheri provided his full name and mobile telephone number. He said he had been interviewed before for the post but had been rejected because of his age and disability.
- 26. The chatbot informed Mr Taheri that he met the eligibility requirements for the role. His application would move forward.
- 27. He was asked whether he would require assistance during the recruitment process, for example in completing an interview or assessment. He said that assistance would be required. The response was that contact would be made to discuss reasonable adjustments.
- 28. He then responded by typing (page 40):
 - "I have cancer."
- 29. The chatbot mistakenly identified this as a role and said (page 41) that
 - "We don't currently have any cancer positions open in Rossendale..."
- 30. Perhaps understandably, Mr Taheri protested that his cancer was a disability not a position. The exchange deteriorated as Mr Taheri became more and more exasperated. He said he should take McDonald's to an Employment Tribunal and said:
 - "They are the worst company in the world with their junk food."
- 31. At one point in the exchange Mr Taheri typed the following:
 - "No, I have not completed an assessment or been offered an interview but my friend James David has an interview?"
- 32. The response did not address his point and he typed:

"Ok, I have applied under an alias so I now have all the evidence for litigation...litigation will commence and I am contacting BBC Watchdog and the Equalities Commission."

<u>Davidson Application 10 January 2023</u>

- 33. The application form completed by James Davidson appeared at pages 115-120. It gave his address as 59 Queensway and a mobile telephone number ending in 4302. The email address and the telephone number were not the same as Mr Taheri had given for himself, but were the same as Mr Taheri had given for his referee "Dave Swann".
- 34. His referee was given as "Dr David Taheri", with Mr Taheri's mobile phone number ending in 1947.
- 35. Mr Davidson's application said on page 118 that he had worked in Burger King in San Jose in California, as Mr Taheri had done according to his 2021 application.
- 36. An online exchange with the chatbot was commenced by James Davidson on 10 January 2023 at 5.08pm, some 25 minutes after Mr Taheri's exchanges with the chatbot began. When asked if he required assistance during the recruitment process, the answer was "no".
- 37. After a short online assessment Mr Davidson was required to complete his application, and having done that he was invited to a 30 minute in person interview on 21 January 2023.
- 38. The chatbot gave him details of the time and venue and said:
 - "Please bring along your eligibility to work documentation such as passport..."
- 39. Mr Davidson then posted three short messages (page 48) in which he said:
 - "My real name is David Taheri...I don't have a passport...but I am David Taheri."

Respondent's Decision

- 40. The chatbot exchanges show that Ms Lee viewed the David Taheri exchanges at 6.58pm on 10 January, and the James Davidson exchanges one minute later (pages 43 and 48).
- 41. On 11 January (page 48) she updated the status of the James Davidson application from "interview scheduled" to "candidate falsification".
- 42. On 12 January Mr Davidson was told that the application would not be moving forward. In subsequent exchanges that day (page 49) he alleged there had been disability discrimination, although nowhere in the James Davidson exchanges had any disability been mentioned.
- 43. After Ms Lee and colleagues, including the manager who interviewed Mr Taheri in November 2021, had viewed his application, he was informed on 17 January (page 44) that his application would not be progressed.

Early Conciliation and These Proceedings

- 44. On 19 January 2023 Mr Davidson commenced early conciliation with ACAS, and the certificate was issued on 14 February 2023 (page 3).
- 45. The claim form was presented on 15 February 2023. The address given was 16 Queensway, and the mobile phone number provided ended in 4302, consistent with the one Mr Davidson had supplied in his application (and the same as Mr Taheri's referee, Dave Swann).
- 46. Box 8.1 raised a claim for disability discrimination. In the details in box 8.2 the claim form asserted in its entirety the following:

"After completing the application process, I was invited for an interview at the Rawtenstall branch on 21 January 2023 at 11.30am.

Subsequently, I informed the respondent that I had cancer and as such would require a reasonable adjustment in line with the Equality Act 2010.

On 12 January 2023, I received text and emails from the respondent informing me that they would be withdrawing my application and cancelling my interview.

It is my belief that they have done this as a result of me informing them of my disability."

- 47. Pausing there, it is noteworthy that the chatbot exchanges show that it was Mr Davidson who was invited for interview on 21 January, but Mr Taheri who informed the respondent that he had cancer. There was no reference to cancer in the exchanges with Mr Davidson.
- 48. The response form was filed on 15 March 2023. The grounds of resistance made the following points:
 - The claimant was actually David Taheri.
 - It appeared that the proceedings had been presented in breach of the RPO.
 - The claim was vexatious and scandalous and should be struck out.
 - The respondent should be awarded its costs.
- 49. The grounds of resistance went on to provide a detailed explanation of the series of events, and denied any disability discrimination.
- 50. Approximately four hours later the claimant withdrew his claim. The email was timed at 16:03 on 15 March 2023 and in its entirety read as follows:

"WITHDRAWAL OF CLAIM

It is the respondent that is acting in a scandalous, vexatious and unreasonable manner."

Costs Correspondence

- 51. The respondent was invited to confirm whether the costs application was to be pursued, and did so on 4 April 2023 by making a detailed application. The application covered all costs incurred whilst the respondent was legally represented, including legal advice in contemplation of proceedings once the claimant revealed that he was in truth David Taheri. Copies of the chatbot exchanges were attached, and the letter was copied to the claimant.
- 52. The claimant responded the same day by a letter of 4 April 2023 at 11:41. He asked that the application be struck out. He said that "this matter has nothing to do with David Taheri" and asserted that costs were covered by the respondent's insurance cover. He said that McDonald's was well-known for "illegal and immoral business ethics".
- 53. I decided that there should be a costs hearing conducted in person. The identity of the claimant was plainly an issue. Mr Taheri had appeared before me in person at a hearing on 11 and 12 September 2019 in case number 2411529/2018 (EAT Judgment paragraphs 67-70). I considered that seeing Mr Davidson in person might help me decide whether he was really Mr Taheri.
- 54. Notice of that in person costs hearing on 2 June 2023 was issued by the Tribunal on 24 April 2023. Mr Davidson responded the same day (page 56). He said once again that the case had nothing to do with David Taheri, asserted that the respondent was acting in a scandalous, vexatious and unreasonable manner, and said he was no longer resident in the UK. He asked for the costs application to be dismissed.
- 55. I refused that application by a letter of 2 May 2023. The points raised were ones which could be raised at the costs hearing.
- 56. The claimant responded to that letter on 2 May 2023 (page 58). He said he was no longer resident in the UK and to proceed without him would be a violation of his Article 6 human rights. On 11 May 2023 he was informed that I had directed that the hearing remain listed in person and that he would need to make arrangements to return to the UK to attend.
- 57. The claimant responded on 11 May (page 59). He made an application for the hearing to be converted by a video hearing by CVP. He said that doing so would save time and money for all parties and would be just and equitable. He said:
 - "If you refuse my application I would ask that you pay for my return ticket of \$3,500 plus hotel costs of £300."
- 58. I considered that application and refused it for reasons set out in a letter of 16 May 2023 (page 60). The letter said:
 - "The identity of the claimant is in issue and that requires a hearing in person if at all possible. If the claimant can provide documentary evidence of his travel arrangements showing that he is abroad on 2 June, and the date of his return to the UK, it might be possible to re-arrange a new hearing date in person."
- 59. The claimant responded by a brief email of 16 May 2023, which was not copied to the respondent, and which said in its entirety:

"I will not be returning to the UK."

- 60. No evidence of travel arrangements was provided.
- 61. I responded by a letter of 22 May 2023 (pages 61-62). I pointed out that the Tribunal would need to make a factual finding about whether he was in reality David Taheri, and if so then any costs order would be made against Mr Taheri. I also pointed out that in that event the matter would be reported for consideration of proceedings for contempt of court by breach of the RPO.
- 62. The Tribunal letter ended as follows:

"If Mr Davidson is genuinely unable to attend the hearing on 2 June 2023 he should supply to the Tribunal and to the respondent copies of his identity documents (e.g. passport, driving licence) and proof of the address given on his claim form (e.g. a copy of a Land Registry entry or a tenancy agreement) as these can be taken into account in deciding if he is really David Taheri. If he is not David Taheri that should be a simple step which will assist him in resisting the application for costs."

- 63. There was no direct response from the claimant to that. No identity documents were supplied.
- 64. On 26 May 2023 the respondent sent to the Tribunal and the claimant by email the bundle of documents prepared for this hearing.
- 65. The claimant sent an email at 14:27 on 26 May 2023 which was the last communication from him about this hearing, and which in its entirety read as follows:

"APPLICATION TO DISMISS COSTS APPLICATION

- 1. The respondent's application is scandalous, vexatious and unreasonable.
- 2. Costs claimed are illegal as they have been paid by the respondent's insurance policy.
- 3. Failure to allow me to participate via CVP is a direct violation of my Article 6 human rights.
- 4. It is obvious that Regional Employment Judge Franey is acting in a totally biased manner and supporting the illegal action of the McDonald's corporation.
- 5. If necessary, I will make an appeal against any illegal decision.

Regards

James Davidson"

Costs Application

- 66. The costs application set out in the letter of 4 April 2023 was based on the following propositions:
 - The claimant had acted vexatiously, abusively, disruptively or otherwise unreasonably in the bringing of these proceedings under a false identity in an attempt to get around the RPO.

- The claimant's case had always had no reasonable prospect of success as it is clear that he applied for a role with the respondent with the intent of instigating litigation against them, and manipulated the situation in an attempt to try and fabricate a claim which simply did not exist. His actions were always designed to abuse the Tribunal system and cause the respondent to incur costs with the aim of attempting to secure a "nuisance" settlement.
- 67. At that stage the costs claimed including VAT were £2,916 which covered costs incurred in three tranches:
 - (a) Costs for advice regarding the application for a job when Mr Davidson revealed he was in fact David Taheri.
 - (b) Costs incurred for legal advice once early conciliation was under way.
 - (c) Costs incurred in defending the proceedings by drafting the response form and the applications to strike out the claim and for costs.
- 68. The application also indicated there would be an additional amount if the matters incurred had to go to a costs hearing.
- 69. In her written submission to this hearing Miss Clarke refined the application in two ways:
 - (a) I was invited to conclude that the claimant's unreasonable and vexatious behaviour had begun when he first applied for the role on the basis that he had had no intention of taking it up; and
 - (b) The costs incurred during the proceedings had increased as a consequence of fees for this hearing, meaning the total sum sought including VAT was £4,136.

Claimant's Response

- 70. The entirety of the claimant's responses to this application have been quoted or summarised above. In summary, he said that the application is vexatious and unreasonable, that this case has nothing to do with David Taheri, and that costs should not be awarded where the respondent has the benefit of insurance cover. He took issue with the amount claimed but provided no detail of why he did so.
- 71. The claimant had not provided any information about his financial position.

Relevant Legal Framework

- 72. The power to award costs is contained in the 2013 Rules of Procedure. The definition of costs appears in rule 74(1) and includes fees, charges, disbursements or expenses incurred by or on behalf of the receiving party.
- 73. Rule 75(1) provides that a Costs Order includes an order that a party makes a payment to another party "in respect of the costs that the receiving party has incurred while legally represented".

- 74. Rule 76(1) provides as follows:
 - "A Tribunal may make a Costs Order or a Preparation Time Order and shall consider whether to do so where it considers that:
 - (a) A party (or that party's representative) has acted vexatiously abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings (or part) or the way that the proceedings (or part) have been conducted; or
 - (b) Any claim or response had no reasonable prospect of success."
- 75. The procedure by which the costs application should be considered is set out in rule 77 and the amount which the Tribunal may award is governed by rule 78. In summary rule 78 empowers a Tribunal to make an order in respect of a specified amount not exceeding £20,000.
- 76. Rule 84 concerns ability to pay and reads as follows:
 - "In deciding whether to make a costs, preparation time or wasted costs order and if so in what amount, the Tribunal may have regard to the paying party's (or where a wasted costs order is made the representative's) ability to pay."
- 77. It follows that the Tribunal must go through a two stage procedure. The first stage is to decide whether the power to award costs has arisen, whether by way of unreasonable conduct or otherwise under rule 76; and, if so, the second stage is to decide whether to make an award and of what sum.
- 78. The case law on the costs powers demonstrates that the award of costs is the exception rather than the rule in Employment Tribunal proceedings; that was acknowledged in **Gee v Shell UK Limited [2003] IRLR 82**.
- 79. If there has been unreasonable conduct there is no requirement for the Tribunal to identify a precise causal link between that unreasonable conduct and any specific items of costs which have been incurred: **McPherson v BNP Paribas** (London Branch) [2004] ICR 1398. However, there is still the need for some degree of causation to be taken into account as the Court of Appeal pointed out in **Barnsley Metropolitan Borough Council v Yerrakalva** [2012] IRLR 78:

"The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case, and in doing so to identify the conduct, what was unreasonable about it and what effects it had."

- 80. It is apparent from the decision of the EAT in **A Q Limited v Holden [2012] IRLR 648** that the fact a party is not professionally represented is no bar to a costs order being made, but it is a relevant factor for the Tribunal to take into account in assessing whether there has been unreasonable conduct.
- 81. The existence of an insurance policy which covers the cost of legal representation is not a relevant consideration: **Mardner v Gardner UKEAT/0483/13**.
- 82. In **Sunuva Limited v Martin [2018] ICR D9** the EAT had to consider whether a costs award could in principle be made for costs which predated the commencement of proceedings. In that case the claimant instructed solicitors to

write a letter before claim within a month of the termination of her employment, ostensibly by reason of redundancy. It was alleged that the redundancy exercise had been a sham. Employment Tribunal proceedings were subsequently issued, and the response form denied that there had been any predetermined outcome. However, at the final hearing some months later it was conceded in oral evidence that it had indeed been decided at the outset of the process that the claimant would be dismissed. This was treated as a concession that the dismissal had been unfair. Relying on the decision of the Court of Appeal in **McPherson**, the EAT concluded that the rules did not limit the costs that may be awarded to costs incurred after the proceedings had begun (paragraph 19). An earlier EAT decision to the contrary in **Health Development Agency v Parish [2004] IRLR 550** could not stand. The Tribunal had power in principle to make an award in respect of legal expenses incurred prior to the commencement of proceedings.

Discussion and Conclusion: Is James Davidson an Alias of David Taheri?

- 83. Underlying this costs application was the factual proposition that the claimant James Davidson is really David Taheri.
- 84. In his emails about this costs hearing James Davidson said on more than one occasion that this case has nothing to do with David Taheri. I took that to be a denial of the proposition above. However, his denial was inconsistent with a number of factors.
- 85. Firstly, and most importantly, the chatbot exchanges contained an admission by David Taheri that he had made another application under an alias (page 43), and a statement by Mr Davidson that his real name was David Taheri (page 48).
- 86. Secondly, there were other correlations between the applications made by David Taheri and James Davidson which showed that the two were one and the same. An example was that the contact email address and telephone number given by David Taheri for his referee ("Dave Swann") were the same email address and phone number provided by Mr Davidson. In addition, James Davidson stated that he worked in a Burger King in San Jose in his application, just as David Taheri had done in his November 2021 application to the respondent.
- 87. Thirdly, Mr Davidson had not taken the opportunity of sending in any proof of identity documents. When Mr Davidson was informed by the chatbot that he would need identity documents he confessed that he was really David Taheri (page 48). When invited by the Tribunal in these proceedings to do so for the purpose of this hearing he did not.
- 88. I therefore found as a fact that James Davidson is an alias used by David Taheri, and the claimant in these proceedings is really David Taheri.

Nullity of These Proceedings

89. It follows in my judgment that the proceedings were a nullity because they were instituted without permission from the EAT and therefore in breach of the RPO, by analogy with section 42(1) of the Senior Courts Act 1981 as interpreted by the Court of Appeal in Williamson v Bishop of London and others [2023] EWCA Civ 379.

- 90. Even though I considered the proceedings to have been a nullity, I was satisfied that the provisions of the 2013 Rules of Procedure relating to costs remain applicable in principle. That interpretation of the Rules gives effect to the overriding objective in rule 2 of dealing with the proceedings fairly and justly. It would not be fair for a respondent to proceedings to be deprived of the opportunity of seeking costs because those proceedings turned out to have been a nullity due to the failure of the claimant to seek permission to bring them.
- 91. I have therefore considered the costs application on its merits under the Rules.

Discussion and Conclusions - Costs Application

Power to Award Costs

- 92. Applying those Rules, the first question for me to determine was whether the power to award costs has arisen.
- 93. I was satisfied that the claimant acted vexatiously, abusively and unreasonably in bringing these proceedings.
- 94. That was not simply because he failed to obtain permission from the EAT to do so. In addition, he behaved vexatiously and unreasonably in bringing the claim because it had no valid basis.
- 95. Mr Davidson at no stage informed the respondent that he had a disability. That did not appear in his chatbot exchanges at pages 45-50. After he was informed that his application would not be progressed, he asked why he was rejected and was told that no position was available that best utilised his skills. He then alleged that there had been disability discrimination, an allegation which made sense only if he was really David Taheri. For "James Davidson" to bring a claim based on disability discrimination in those circumstances whilst denying that he was David Taheri was vexatious and unreasonable.
- 96. I was also satisfied that the claimant acted vexatiously and unreasonably in applying for the role in the first place. I took into account the evidence before me, including the chatbot exchanges containing derogatory comments made about McDonalds, and the fact that the claimant withdrew this claim within hours of his true identity being asserted by the respondent in the response form.
- 97. I was satisfied that he applied for this role not with any intention of taking it up, but in order to manufacture a rejection which he could then use as a device to bring a discrimination complaint to the Employment Tribunal in the hope of extracting a "nuisance" settlement from the respondent.
- 98. In reaching that conclusion I took into account that candidates who genuinely perceive that their disability has been a material influence on the fact that a job application has not succeeded may on occasion properly submit an identical application with different protected characteristic details as a means of obtaining evidence to support the genuine belief that there has been unlawful discrimination.
- 99. However, in my judgment that was not the position here. The purpose of the job application was to manufacture a litigation opportunity. That explained why Mr

Taheri submitted a second application using the alias James Davidson <u>before</u> his application had been rejected. It was a device to enable him to circumvent the effect of the RPO in the hope that a Tribunal claim presented by James Davidson would not lead to him being identified as David Taheri. It supported the inference he wanted a rejection which he could litigate, not an offer of employment.

- 100. I therefore concluded that the claimant had acted vexatiously and unreasonably in:
 - (a) seeking employment with the respondent; and
 - (b) bringing these proceedings.
- 101. The power to award costs had arisen under Rule 76.

<u>Is a Costs Order Appropriate?</u>

- 102. I considered whether a costs order was appropriate. In my judgment it was.
- 103. The claimant's point about insurance cover was misconceived: **Mardner v Gardner**.
- 104. I was satisfied that the claimant's vexatious and unreasonable conduct caused the respondent to incur legal costs which it should not have had to have incurred. The job application should not have been made and this claim should never have been presented.

Amount of Costs Order

- 105. The legal costs incurred by the respondent appeared to me to be reasonably incurred, and in a reasonable sum.
- 106. It was reasonable of the respondent to seek legal advice as soon as the claimant revealed that he was David Taheri in the recruitment process, and the probability of legal proceedings became apparent. This was one of those exceptional cases where it was fair and just that costs incurred before presentation of the claim should be recoverable.
- 107. As for the response to the claim itself, the response form and the application for costs were carefully drafted, and the claimant continued to dispute that he was David Taheri or that any costs order should be made right until the end.
- 108. The claimant failed to provide any reasoned objections to the amounts claimed.
- 109. He was ordered to pay the total figure of £4,136.00.

Regional Employment Judge Franey 7 June 2023

JUDGMENT AND REASONS SENT TO THE PARTIES ON 15 June 2023

FOR THE TRIBUNAL OFFICE
<u>Public access to employment tribunal decisions</u> Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.