



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr C Pickles

**Respondent:** Northern Trade Windows (Pennines) Limited

**HELD at Leeds**

**ON: 21 June 2023**

**BEFORE:** Employment Judge Shulman

## REPRESENTATION:

**Claimant:** Did not appear and was not represented

**Respondent:** Mrs A Singh, Consultant

# JUDGMENT

1. The claimant shall pay the respondent by way of a Preparation Time Order the sum of £389.15.

# REASONS

## 1. Issue

Whether the claimant is liable for a Preparation Time Order. If so he shall be ordered to pay the same.

## 2. No Attendance by the Claimant

The claimant did not attend the hearing and was telephoned by the clerk in order to enquire as to his whereabouts. The claimant stated to the clerk that he did not know anything about the hearing. This is despite the fact that notice of hearing was served upon him by email to his correct email address. It was clear from the conversation that the claimant did not wish to attend the hearing.

3. **Individual Voluntary Arrangement (IVA)**

- 3.1. At the outset of the hearing the respondent informed the Tribunal that the claimant was subject to an IVA. It was made on 8 February 2022 and not discharged. The Tribunal has power to deal with the respondent's application withstanding the IVA.

4. **The respondent's case for a Preparation of Time Order**

- 4.1. The claimant conducted the case unreasonably. This is evident from the Judgment in the case given on 14 February 2023, because the claimant was claiming four sums of money which he had already received from the respondent and he admitted that accordingly.
- 4.2. The Judge has a discretion in the case of whether or not to grant a Preparation Time Order.
- 4.3. When the claimant filed his claim he was aware that he had no reasonable prospect of success.
- 4.4. The respondent submitted a schedule of costs in its application and bundle. The hourly rate pursuant to Rule 79(2) of the Employment Tribunal Rules (Rules) is £43 per hour. The Tribunal dealt with the schedule as follows:
- 4.4.1. Initial resistance of claim - £34.40.
  - 4.4.2. Preparation of the response. The claim of 3 hours 34 minutes is too much. One hour is allowed of £43.00.
  - 4.4.3. Preparation of the response. This is a duplicate of 4.4.2 – nil.
  - 4.4.4. Coming on record – not applicable.
  - 4.4.5. Reviewing case file - £43.00
  - 4.4.6. Discussion with the client - £32.25.
  - 4.4.7. Preparation - liaison with client - £129.00.
  - 4.4.8. Preparation for the final hearing - £43.00.
  - 4.4.9. As 4.4.8 - £64.50..
  - 4.4.10. Not applicable
  - 4.4.11. **Grand total of the respondent's claim £389.15.**

5. **Determination of the Issue (after listening to the factual and legal submissions made by and on behalf of the respondent):**

- 5.1. The Tribunal accepts that the claimant had undischarged IVA. He has provided no other evidence of his means. He says he is on Universal Credit, which covers rent and council tax, and that he has a three year old child, but there is no evidence of these or of his partner's means. The Tribunal can take into account the IVA.
- 5.2. Having regard to Rule 76(1)(a) of the Rules I consider that the claimant has acted unreasonably in pursuing a case without merit.

- 5.3. Having regard to Rule 76(1)(b) of the Rules, for the same reason set out in paragraph 5.2 above, the claim had no reasonable prospects of success.
- 5.4. Having regard to Rule 75(2) of the Rules I am satisfied that whilst the respondent was not legally represented time was spent by the respondent in working on the case as set out at paragraph 4.4 above.
- 5.5. With regard to Rule 79(1)(b) of the Rules I have decided what I consider reasonable and proportionate to spend on preparatory work with reference in particular to the lack of complexity of the proceedings.
- 5.6. With regard to Rule 84 of the Rules the Tribunal may have regard to the claimant's ability to pay. The claimant has raised this in an email of 24 April 2022 no evidence has been submitted in support although the Tribunal can take into account the fact that there is an undischarged IVA.
- 5.7. I have considerably reduced the respondent's original claim of £829.90 on the grounds of proportionality. Whilst the claimant has raised the ability to pay in his email of 24 April 2022, no evidence has been submitted in support but the Tribunal can take into account the fact that there is an undischarged IVA.
- 5.8. I have reduced the respondent's claim and although I take into account the IVA I do not exercise my discretion to reduce the claim further on the grounds of ability to pay.
- 5.9. I do not reduce the claim further for a number of other reasons. The claimant raises his mental health but provides no evidence about it and I cannot see that this has any bearing on the hearing. I take into account the claimant's conduct of his claim and his failure to attend today, which from a discussion with the clerk, who had to call him, was deliberate, not even having the courtesy to inform the Tribunal that he was not attending. He even stated that he did not know anything about the hearing. It is clear that the notice of hearing was sent to his correct email address.
- 5.10. For all these reasons the claimant is ordered to pay a Preparation Time Order in the sum of £389.15.

**Employment Judge Shulman**

Date: 3 July 2023