



EMPLOYMENT TRIBUNALS

Claimant: Mrs T Toth

Respondent: Great Bear Distribution Ltd

HELD AT: Mold **on:** 10th July 2023

BEFORE: Employment Judge T. Vincent Ryan

REPRESENTATION:

Claimant: Mr A Toth, the claimant's husband

Respondent: Ms K Anderson, Counsel

Interpreter: Ms. Moray (Hungarian/English translation)

A **Costs Order** having been sent to the parties on 12 July 2023 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. This Order is by reason of the claimant's unreasonable conduct of proceedings in and around an abortive preliminary hearing listed to take place on 14th March 2023.
2. I confirmed my rationale, not only orally but also, in the Reserved Judgment Order & Deposit Order also made on 10th July and sent in writing to the parties on 12 July 2023. I therefore confirm paragraphs 7-10 and 17 of that document in response to the claimant's request for written reasons as follows:
 - 2.1. "In general terms I accept the categorisation made by Counsel of the claimant's conduct of proceedings as being unreasonable. I explained this in the oral reasons that I gave to support the costs order made this morning. Those oral reasons were translated for the benefit of Mr Toth and he took notes."
 - 2.2. "I do not consider that the claimant has made claims that were either scandalous or vexatious. She is effectively a litigant in person relying on the voluntary services of her husband. He has some experience of Tribunal

practices and procedures and some knowledge of the applicable law. I have no reason to believe that he is acting in a contemptuous manner or that he doubts the sincerity of the claims, even if his confidence in them may be ill-founded. The claims are of a type that are routinely brought to the Tribunal. It would be unfair to penalise the claimant for any lack of expertise or professionalism in making the claims.”

- 2.3. “I gave an oral judgment as to the unreasonableness of the conduct of proceedings when I made the Costs Order. There was a late application for a postponement by the claimant’s representative on the basis of his ill-health. The hearing in question was listed for 13 March 2023, but Mr Toth had been in ill health since December 2022 and January 2023 in circumstances where alternative arrangements could have been made, or the claimant could have appeared in person. There is little evidence to support Mr Toth’s incapacity from attending as a representative and there is none at all with regard to the claimant’s incapacity to attend as a litigant in person. She was invited to attend to make an application for postponement or to proceed as a litigant in person; she did neither. The claimant prioritised other matters in relation to work, domestic arrangements, and the concentration of efforts with regard to a house move, funding it and a mortgage application. Whereas I do not criticise the claimant for her domestic concern, nevertheless it was unreasonable to forsake these proceedings to the extent where the hearing in March had to be aborted on the day. The claimant has decided to litigate and therefore has a duty to pursue that litigation actively.”
- 2.4. “I cannot say that there has been an outright failure to pursue the litigation actively in that there was compliance with further orders by way of a request for this hearing and confirmation that no claims were being withdrawn. Nevertheless for the reasons set out in the respondent’s submissions where Miss Anderson criticises the claimant’s conduct of proceedings, I agree that the conduct has been unreasonable.”
- 2.5. “I gave Mr Toth the opportunity to provide details in relation to means and ability to pay both costs and deposits. He provided me with some information. In the light of the information provided, and to avoid the situation of appearing to penalise the claimant or place unreasonable obstacles in the way of litigation, I have moderated the deposits”; I confirm that the same considerations applied to my decision to limit the Costs Order to £1,500.

Employment Judge T.V. Ryan

Date: 04 August 2023

JUDGMENT SENT TO THE PARTIES ON 22 August 2023

FOR THE TRIBUNAL OFFICE Mr N Roche