



EMPLOYMENT TRIBUNALS

Claimants: Mrs D Stephens (1600435/2023)
Mr R Davies (1600436/2023)
Mr A Jones (1600437/2023)

Respondent: Ship Edern Ltd

Heard at: Cardiff (on papers) **On:** 4 October 2023

JUDGMENT

The claimants are each awarded a preparation time order in the sum of £516.00.

The respondent is ordered to pay each claimant the sum of £516.00.

REASONS

1. By judgments dated 7 July 2023 the claimants succeeded in their claims for redundancy pay, unfair dismissal, notice pay and holiday pay against the respondent. By an email dated 19 July 2023 the claimants applied for a preparation time order. On 1 September 2023 the respondent was invited to make representations by 15 September 2023. None such representations were received from the respondent.
2. My decision was made on the papers on the above date.

The Law

3. Rule 75 (2) of the Employment Tribunal Rules of Procedure 2013 ("the Rules") provide that a preparation time order is an order that a party ('the paying party') make a payment to another party ('the receiving party') in respect of the receiving party's preparation time while not legally represented. 'Preparation time' means time spent by the receiving party (including by any employees or advisers) in working on the case, except for time spent at any final hearing.
4. Rule 76 (1) provides:

(1) 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;

(b) any claim or response had no reasonable prospect of success; or

5. Rule 79 provides:

(1) The Tribunal shall decide the number of hours in respect of which a preparation time order should be made, on the basis of—

(a) information provided by the receiving party on time spent falling within rule 75(2) above; and

(b) the Tribunal's own assessment of what it considers to be a reasonable and proportionate amount of time to spend on such preparatory work, with reference to such matters as the complexity of the proceedings, the number of witnesses and documentation required.

6. The current rate is £43 per hour.

Conclusions

7. I firstly consider whether there are grounds to make an order.

8. The respondent did not present a response. As the respondent did not engage in the proceedings, there was no exercising of discretion as to the extent they would be permitted to take part in the proceedings. The respondent took no part in the proceedings. Accordingly the judgments were Rule 21 judgment.

9. I consider that failing to present a response amounts to unreasonable conduct as does ignoring and failing to comply with Tribunal orders and correspondence. To say otherwise would insulate a respondent who fails to enter a response from a costs / preparation time order. This is because the second ground under Rule 76 (1) (b) cannot be engaged as no response was entered. The claimants were put to the expense of bringing the claim and preparing for the hearing. They were all dismissed without any notice on 16 November 2022 when they arrived at work to discover the premises had been repossessed.

10. I go on to consider whether to exercise my discretion and make an order for costs. I have been unable to have regard as to the respondent's ability to pay as no representations have been received. I note from Companies House that both directors have resigned from the respondent company and the proposal to strike off the company has been suspended.

11. In my judgment it is appropriate to make a preparation time order. The claimants were summarily dismissed and did not receive any notice pay or redundancy pay. They had to spend time researching how to bring a claim,

initiate contact with ACAS and prepare the hearing. This included preparing bundles and witness statements and drafting schedule of loss. The claimants estimate that between them they spent 85 hours preparing for the case. Whilst not seeking to criticise the claimants this would appear excessive and not proportionate. However I also take into account the fact that the claimants were litigants in person and needed to undertake research.

12. In the circumstances, applying a broad brush approach, I consider that in respect of each claimant a proportionate amount of time to have spent preparing their cases was 12 hours each. I therefore award each claimant the sum of £516.00 (12 * £43).

Employment Judge S Moore

Date 4 October 2023

JUDGMENT & REASONS SENT TO THE PARTIES ON 10 October 2023

FOR THE TRIBUNAL OFFICE Mr N Roche