



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Smith

**Respondent:** HFD Limited

**Heard at:** Bury St Edmunds Employment Tribunal

**On:** 14 September 2023

**Before:** Employment Judge Hutchings (sitting alone)

**Representation**

Claimant: did not attend

Respondent: Mrs Sharp (Counsel)

## JUDGMENT ON COSTS

The respondent's application for costs to be paid by the claimant is successful. The claimant is ordered to pay to the respondent the sum of **£723.80**.

## REASONS

1. At a hearing on 14 September 2023 the claimant's claims were struck out for the following reasons. The claimant has:
  - 1.1. not complied with the Orders of the Employment Tribunal dated 15 June 2023;
  - 1.2. not responded to the strike out warning dated 11 September 2023;
  - 1.3. not actively pursued the claim; and
  - 1.4. conducted the claim in an unreasonable manner to cause disruption.
2. The claimant has not corresponded with the Tribunal or the respondent's legal representatives since 19 January 2023 when he submitted his ET1. In the Tribunal's case management order, which was sent to the claimant on 26 July 2023, the claimant was asked to confirm his intent to continue with his claims

and warned of the potential costs consequences of not doing so. In correspondence from the respondent's solicitors in June, July and August 2023 the claimant was informed of the respondent's intention to apply to strike out his claims and seek its legal costs. He did not respond to this correspondence.

3. I consider that the claimant's non engagement with the Tribunal and the respondent's solicitors since submitting his claim on 19 January 2023 is disruptive and unreasonable. He has failed to comply with the case management order of the Tribunal dated 15 June 2023. The claimant has not responded to the Tribunal's strike out warning dated 11 September 2023. For these reasons I conclude it is just and fair that a costs order is made.
4. The respondent is seeking only counsel's fees and travel costs of the hearing to consider the strike out application. It is not seeking its solicitor's fees. I consider this approach reasonable. Had the claimant responded to the multiple emails from the respondent's solicitors raising concerns about his engagement or to the Tribunal by the deadline, it is likely that it would not have been necessary for this hearing to take place.
5. In making this costs order, I am mindful that the Tribunal may have regard to the claimant's ability to pay. This is not an absolute requirement but is best practice. I conclude by the exchanges of correspondence the claimant has been given the opportunity to raise his concerns about a costs order by the Tribunal and the respondent's solicitors. He was warned of the costs consequences in the Tribunal order dated 15 June 2023. The claimant has not engaged at all nor did he attend the hearing. The Tribunal attempted to contact him at the start of the hearing using the 2 telephone numbers he had provided on his ET1. He did not answer nor was there a message system where the Tribunal could leave a message. Therefore, it has not been possible for me to obtain any information about the claimant's ability to pay.
6. For these reasons I order the claimant to pay the respondent's costs of £723.80.

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Employment Judge Hutchings

14 September 2023

JUDGMENT SENT TO THE PARTIES ON

24/10/2023

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FOR THE TRIBUNAL OFFICE