



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Adrian Whitehead

**Respondent:** Warwickshire County Council

## COSTS HEARING

**Heard at:** Birmingham

**On:** 8 November 2023

**Before:** Employment Judge Camp

**Members:** Mr E Stanley  
Ms J Keene

### Appearances

For the claimant: did not appear

For the respondent: Ms J Duane, counsel

## JUDGMENT

1. Pursuant to rules 76(1)(a) & (b) and 78 [of the Employment Tribunals Rules of Procedure], the claimant must pay the whole of the respondent's costs of the Tribunal proceedings, with the amount, if not agreed, to be determined by way of a detailed assessment by a County Court in accordance with the Civil Procedure Rules 1998, on the indemnity basis.
2. The Tribunal is satisfied that the claimant is aware of this hearing and has chosen not to attend, presumably with a view to alleging at a later date that he was not aware of it and therefore that the above judgment should be set aside. In connection with this, it should be noted that the claimant's unreasonable conduct that has led to the costs order being made includes:
  - a. manufacturing documents and evidence;
  - b. alleging that correspondence and other documents posted to him by the Tribunal and the respondent have not been delivered to his address and served on him when in fact they have been; alleging he has sent correspondence and other documents to the Tribunal and the respondent that he has not in fact sent; and denying being responsible for sending

correspondence and other documents to the Tribunal and the respondent that he has in fact sent or caused to be sent;

- c. returning to the respondent and the Tribunal (or causing to be returned) correspondence and other documents delivered to his address, so as to give the false impression that they have not in fact been delivered. This includes returning to the respondent and the Tribunal copies of the respondent's costs application;
  - d. if and in so far as the claimant has moved from the address in Wellingborough with the postcode beginning "NN8 1" and no longer wishes to be served at that address, failing to provide to the Tribunal or the respondent an alternative address for service. It is noted that: the claimant specified the Wellingborough address as his only address for service in accordance with rule 86 from an early stage of the proceedings; he specified it as his address in correspondence with the Employment Appeal Tribunal at least up to May 2023; he – or someone on his behalf – has continued to return post from that address; it is the address of a property he was still the registered proprietor of on 27 October 2023, when a Land Registry search was carried out;
  - e. falsely claiming (in correspondence received by the Tribunal on 16 October 2023 which on the face of it is an email he sent to the Employment Appeal Tribunal on or about 12 October 2023) that he has notified the Tribunal of a temporary alternative address and a new permanent address;
  - f. falsely claiming that he lacks the facility and/or ability to send and receive emails;
  - g. sending, or causing to be sent, emails to the Tribunal and the respondent from email addresses he has previously used falsely claiming to be both from people other than himself and not to be sent at his instigation, responding to correspondence and other documents sent to those email addresses by the Tribunal or the respondent. This includes in particular an email that was sent on 29 September 2023, from an email address beginning "Adrian-Whitehead@", to the Tribunal, to Employment Judge Camp personally, to Regional Employment Judge Findlay personally, and to the respondent, responding to the Notice of Hearing for this costs hearing.
3. Further to the Tribunal's orders of 23 August and 30 October 2023, which the claimant has failed to comply with by the relevant deadlines or at all, the claimant has been debarred from relying on impecuniosity (i.e. from saying he does not have very much money) in relation to the respondent's costs application, both as to whether he should be ordered to pay costs at all and as to how much costs he should have to pay. In any event, the claimant has failed to provide any evidence as to his ability to pay, despite being ordered to do so. Accordingly, in the particular circumstances of this case, the Tribunal has decided not to take his ability to pay into account in accordance with rule 84.
  4. The Tribunal has the power both to award up to £20,000 in costs under rule 78(1)(a) and, under rule 78(1)(b), to award an amount of costs to be determined by way of a detailed assessment. This means the Tribunal may make the equivalent of an order

for payment on account of costs under rule 44.2(8) of the Civil Procedure Rules, albeit for not more than £20,000.

5. Pursuant to rule 78(1)(a), the claimant must pay the respondent the sum of **£20,000** as a payment on account of costs. For the information of the Judge carrying out the detailed assessment, if the Tribunal had power to order payments on account of costs in excess of £20,000, the amount awarded under this paragraph would be over £100,000.
6. Reasons were given orally at the hearing. Written reasons will not be provided unless asked for by a written request presented by any party within 14 days of the sending of this written record of the decision.

Employment Judge Camp on 09/11/2023