EMPLOYMENT TRIBUNALS

Claimant: Mr G Pink

Respondent: N2O Limited

Heard at: Reading (by CVP) **On:** 24 May 2024

Before: Employment Judge Anstis (sitting alone)

Representation
Claimant: Mr P Jackson (solicitor)
Respondent: Mr S A Brochwicz-Lewinski (counsel)

JUDGMENT having been sent to the parties on 3 July 2024 and written reasons having been requested by the claimant in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. On 24 May 2024 I prepared a judgment in this case in the following terms:

> *"1. All claims except for the claimant's claim of protected disclosure detriments are dismissed on withdrawal.*
>
> *2. The claimant must pay £200 to the respondent in respect of costs."*

2. This was promulgated on 3 July 2024 and the same day the claimant requested written reasons for the judgment. That request has been referred to me today.

3. I think the first element of the judgment is self-explanatory and, I hope, not controversial. The claims were dismissed under rule 52 on their withdrawal by the claimant. I take it that the request for written reasons is addressed to the second part of the judgment – the costs award.

4. The costs application made by the respondent was for the costs of the previous case management hearing, which the respondent says was, by reason of the claimant's fault, ineffective. I take it that this is an application based on unreasonable conduct of proceedings or unreasonable bringing of at least part of the claim.

5. For Mr Jackson, this is the latest act of oppression wrought by a disreputable employer that refuses to face up to its social obligations. Mr Jackson says that the respondent and its lawyers have been heavy handed, oppressive and the costs are far too much.

6. It does appear that the respondent has taken the view that no expense is to be spared and no stone left unturned in defending the claim. Perhaps that is understandable in a claim that is unashamedly an attack on what is likely to be a significant part of their business model. However, it is not the case that the respondent's or its lawyers have acted improperly in their response to the claim. Quite the reverse could be said. At an early stage, in their letter of 12 July 2023, they made many of the points that I was later to make in the first preliminary hearing. Rather than acknowledge or constructively engage with these, Mr Jackson has taken them as a further indication of the respondent's disreputable and oppressive hostility.

7. At the heart of this has been the difficulty of converting the claimant's sense of injustice into a viable legal claim. I regret to say that the claim as originally drafted was comprised more of rhetoric in support of the overall justice of the claimant's claim than it was of any sound legal claims. The claims originally brought have almost all be entirely abandoned. Only the whistleblowing detriment claims survive, and they are the subject of a deposit order.

8. This may not be considered unusual if the claimant had been representing himself, but he has had the benefit of professional representation throughout.

9. I do consider that to have two preliminary hearings has been unnecessary. One hearing would have sufficed if the claim had been originally brought on a legally sound basis, which is was almost entirely not. This is unreasonable conduct of proceedings and unreasonable bringing of at least part of the claim.

10. I consider that the respondent is, in principle, entitled to its costs of the previous preliminary hearing. I have said that no expense has been spared, but that is between the respondent and its lawyers. I would consider £2,000 to be a reasonable amount of costs for that hearing.

11. I have to take into account the claimant's means in making any costs award. Mr Jackson did not address me directly on this in the context of the costs award, but it was considered for the deposit order. I have only partial evidence of the resources available to the claimant, but that suggests that he does not have much money. It is, though, an incomplete picture. The best I think I can do as regards the claimant's means is to reduce the costs award to £200, and that is what I will award.

Employment Judge Anstis
Date: 8 July 2024

REASONS SENT TO THE PARTIES ON
16 July 2024

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FOR THE TRIBUNAL OFFICE