EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Mrs Alcian Roofe-Stewart	v	Macintyre Care Limited

Heard at: Cambridge **On:** 25 October 2023

Before: Employment Judge Tynan

Appearances:
For the Claimant: Did not attend and was not represented
For the Respondent: Mr J Ali, Counsel

JUDGMENT having been given on 25 October 2023 and sent to the parties on 19 December 2023 and written reasons having been requested by the Claimant on 1 January 2024 in accordance with Rule 62(3) of the Employment Tribunal Rules of Procedure 2013, the following reasons are provided:

REASONS

1. I apologise to the parties for the delay in providing these written reasons. It only came to my attention on 4 June 2024 that written reasons may have been requested; a copy of the request for written reasons was provided to me on 5 June 2024. I shall issue directions separately in respect of the Claimant's application for reconsideration, which was submitted as part of the request for written reasons and which I also only saw for the first time on 5 June 2024.

2. The Claimant was employed by the Respondent as a Support Practitioner. She commenced employment with the Respondent on 8 July 2019. Her employment was terminated on 22 June 2021 for gross misconduct, namely an alleged serious breach of the Respondent's health and safety policy arising from her refusal to participate in Covid-19 testing procedures mandated by the Respondent and Public Health England.

3. The Claimant presented a claim to the Employment Tribunals on 10 October 2021 in which she claimed that she had been unfairly dismissed and discriminated against on the grounds of disability. Although she was represented, the Claimant did not identify any impairment in her claim form or offer any further information as to why she might be disabled within the meaning in section 6 of the Equality Act 2010. Her claims were

resisted by the Respondent. Amongst other things, it was not accepted that the Claimant was disabled within the meaning of the 2010 Act ("EqA") at the relevant time.

4. The Claimant was ordered by the Tribunal to provide a disability impact statement by 11 April 2022 and disclose any relevant medical evidence regarding her claim to be disabled by 25 April 2022. Unfortunately, she suffered a bereavement; the Respondent agreed to the orders being varied to allow her additional time to comply. However, the Claimant failed to do so within the revised agreed time frame. In an email to the Tribunal dated 14 July 2022, the Respondent's solicitors identified various correspondence which had either gone unanswered or to which they had received unsatisfactory responses. They stated that the Claimant had served an impact statement, albeit which they described as a witness statement relating to the issue of discrimination. They went on to say that they were still awaiting a response from the Claimant's representatives to their most recent communication of 27 June 2022 in which they had offered the Claimant a further two weeks in which to comply with the Tribunal's orders, namely by 25 July 2022. That date was some three months or more after the date originally set by the Tribunal for compliance.

5. On 18 July 2022, the Claimant's representatives filed an impact statement with the Tribunal. It outlined an employer's duties in respect of the health, safety and welfare of its staff as well as the duty under EqA to make reasonable adjustments. It went on to address the Claimant's stated condition of mixed connective tissue disease ("MCTD"), being the condition relied upon in terms of the Claimant's claim to be disabled, albeit it essentially dealt with the condition in general terms rather than with reference to its impact upon the Claimant. For example, the Claimant made reference to a range of symptoms, including aseptic meningitis and gangrene, but did not suggest that she had experienced those symptoms. In an addendum to her statement, the Claimant identified concerns in relation to adverse events which were said to be markers of Vaccine Associated Enhanced Disease in respect of the Pfizer COVID-19 vaccine. No medical evidence was filed in support of her impact statement

6. On 22 July 2022 the Claimant advised the Tribunal that she was representing herself. On 27 July 2022, the Claimant filed a two-page disability impact statement with the Tribunal, which she described as an addendum to her earlier impact statement. However, she still did not file any supporting medical evidence.

7. At the direction of Employment Judge M Ord, the Tribunal wrote to the Claimant on 10 August 2022 asking her whether she had any medical evidence in support of her claim to be disabled. That prompted an email from the Claimant to the Tribunal dated 31 August 2022 to which she attached a letter dated 14 May 2020 from Dr Ioanna Papadaki, a Consultant Rheumatologist at the Milton Keynes University Hospital, together with correspondence addressed to the Claimant from the NHS and Departments of Health and Social Care advising her to shield.

8. Following a public preliminary hearing on 27 September 2022 before

Employment Judge S Moore, it was determined that the Claimant was not disabled within the meaning of s.6 EqA 2010 at the time relevant to her claim by reason of MCTD. Her claim of disability discrimination was therefore struck out. I can see from the case file that the Claimant appealed that decision; her appeal was referred to the Honourable Mrs Justice Eady DBE, who directed that no further action should be taken on the appeal (subject to the Claimant's Rule 3(10) rights).

9. Having struck out the disability discrimination claim, Employment Judge S Moore directed there should be a further public preliminary hearing on 2 February 2023 to consider whether the Claimant should be ordered to pay a deposit as a condition of continuing to advance her remaining claim of unfair dismissal and to make further case management orders. The Judge separately listed the case for a final hearing on 22 and 23 May 2023 (the hearing duration was subsequently extended to three days).

10. The Claimant was not represented on 27 September 2022, but by 2 February 2023 she was instructing Mr Simon Swanson of Justice Law Consultants. The matter came before Employment Judge McNeill KC on 2 February 2023. The Judge considered that the Claimant's allegation that she had been unfairly dismissed had little reasonable prospect of success and ordered the Claimant to pay a deposit of £100 as a condition of being permitted to continue with that claim. As far as I am aware, there was no appeal against that decision and the deposit was duly paid by the Claimant.

11. Employment Judge McNeill KC also made case management orders on 2 February 2023 in respect of the final hearing. Her orders that the Claimant serve an updated schedule of loss and provide disclosure of relevant documents were seemingly not complied with. On the Judge's direction, the Claimant was granted additional time until 24 April 2023 to comply and warned that if she failed to comply with the revised timetable her claim could be struck out or an "unless order" made.

12. Mr Swanson wrote to the Tribunal on 24 April 2023 apologising for the Claimant's delay in complying with the Tribunal's orders. He stated that matters were then in hand; he did not suggest that the Claimant's failure to comply with the Tribunal's orders was health related.

13. Subsequently, on 10 May 2023 the Respondent's solicitors submitted a detailed application for costs in respect of the ongoing substantive claim and requested that the application should be considered at the conclusion of the final hearing in the event the Claimant did not succeed in her claim. Appended to the costs application were two detailed costs warning letters dated 14 July and 21 October 2022.

14. On 12 May 2023, the Claimant applied to postpone the final hearing. Mr Swanson stated that the Claimant was disabled by reason of MCTD, citing in this regard her diagnosis with the condition in 2010. This overlooked both that the disability issue had not been determined in the Claimant's favour and that the EAT had directed no further action to be taken on the appeal. Be that as it may, Mr Swanson went on to say that the Claimant had been suffering with stress, anxiety and depression for some time as a

result of negative experiences with the Respondent and the termination of her employment. He said that the Claimant had been prescribed mirtazapine by her GP to treat her anxiety and depression, that she was receiving treatment for rheumatoid arthritis and had recently been informed that she had pleural fluid in her lungs, possibly caused by rheumatoid arthritis and lupus. Employment Judge McNeill KC directed that the application to postpone would be considered on receipt of relevant medical evidence. That direction, which was communicated to the parties on 17 May 2023 crossed with further correspondence from Mr Swanson, filing a short report dated 15 May 2023 from the Claimant's GP, Dr Egan stating that the Claimant was not fit to attend the final hearing. Dr Egan confirmed that mirtazapine had been prescribed on 25 April 2023 to help treat the Claimant's mood issues and that on 12 May 2023 the Claimant had reported some positive effects. Dr Egan did not refer to rheumatoid arthritis, lupus or the alleged pleural fluid in the Claimant's lungs.

15. On 18 May 2023, Regional Employment Judge Foxwell Ordered that the final hearing should be postponed and directed the Claimant to update the Tribunal and the Respondent on her health situation by 29 June 2023.

16. The Respondent's solicitors wrote to the Tribunal on 29 June 2023, copying in both the Claimant and her representative. They stated that they had attempted to ascertain the Claimant's current position but to no avail. They referred to the Claimant, "…progressing a separate matter in the Employment Appeal Tribunal as of two weeks ago", but did not provide any further details in that regard. It may be that the Claimant has pursued her Rule 3(10) rights, though there is no further information on file to enable me to know whether the Claimant actively progressed her appeal at a time when she was in breach of this Tribunal's orders and said to be unfit to attend the final hearing.

17. In their correspondence of 29 June 2023, the Respondent's solicitors provided the Tribunal with the Respondent's dates to avoid for the remainder of the year to enable the final hearing to be re-listed and sought a further case management order for the Claimant to serve her witness statement, the Respondent's own witness statements having already been served in May 2023 as ordered. They noted that the Respondent continued to be prejudiced by having furnished the Claimant with its witness evidence but not having sight of her evidence.

18. Later that day Mr Swanson wrote to the Tribunal to advise that the Claimant remained signed off sick by her GP up to 3 July 2023. He stated that recent blood tests showed coagulation of the Claimant's platelets and that she required a lupus anti-coagulant, but no medical evidence was submitted in that regard.

19. No further update was provided on the Claimant's situation after 3 July 2023.

20. On 7 August 2023, the Tribunal notified the parties that the final hearing had been re-listed on 25 to 27 October 2023. No dates to avoid had been provided by the Claimant. As noted above, the Respondent's dates to avoid had been provided on 29 June 2023 and copied to the Claimant.

21. On 31 August 2023, the Respondent applied for the Claimant's claim to be struck out, alternatively for an "unless order", in respect of the Claimant's ongoing failure to serve her witness statement as ordered by the Tribunal. Nearly four months had by then elapsed since the date specified by Employment Judge McNeill KC for exchange of witness statements. The Claimant had, of course, already been warned by Employment Judge McNeill KC on 17 April 2023 that her claim might be struck out or an "unless order" made in the event of further non-compliance.

22. In their application, the Respondent's solicitors stated that numerous attempts had been made to contact the Claimant's representative, to no avail, and further highlighted that Counsel had been instructed for the final hearing and that they would be required to brief Counsel as soon as possible. Mr Swanson would have understood that this would necessarily involve time and expense, as well as resulting in Counsel's brief fee being incurred.

23. At my direction a strike out warning was issued to the Claimant on 19 September 2023, allowing the Claimant seven days in which to object to the proposal, either by giving reasons in writing or by requesting a hearing. At 17:27 on 26 September 2023, Mr Swanson wrote to the Tribunal objecting to the claim being struck out. He stated that the Claimant continued to suffer with ill health in relation to which there was said to be an ongoing investigation, following tests showing further health problems facing the Claimant. No further details were provided and no supporting medical evidence was adduced. Mr Swanson added that the Claimant was concerned for her elderly mother who lives in Jamaica and was said to be asking the Claimant to visit her. He went on to say that the October hearing had been fixed without the Claimant being given an opportunity to provide dates to avoid and that the dates on which the hearing had been listed,

> "… clashes with dates the Claimant had arranged to visit her elderly Mother who is herself suffering from ill health."

There was no application or explicit request to postpone the final hearing.

24. This prompted further representations from the Respondent's solicitors on 13 October 2023 who stated that they had written to the Claimant and her representative "on multiple occasions". They requested evidence in support of the Claimant's objections to strike out, including any evidence of incapacity preventing the Claimant from dealing with her witness statement or attending the final hearing in October, including whether she would be able to attend the final hearing if it was converted to Cloud Video Platform (CVP). They also requested details of her mother's ill health as well as evidence to support any prior commitment to visit abroad. However, there was seemingly no engagement by the Claimant with these issues; instead, on 16 October 2023, Mr Swanson submitted a formal application to postpone the final hearing.

25. In his application on behalf of the Claimant, Mr Swanson asserted once again that the Claimant was disabled by reason of MCTD. He additionally

referred to the Claimant suffering with stress, anxiety and depression. He described the Claimant's disability as including lupus, that she had been suffering with blood clots and that she had been under the care of Dr Papadaki. The supporting letter submitted in that regard was the same evidence submitted by the Claimant in 2022 in support of her claim to be disabled.

26. Mr Swanson went on to say,

> "The case was re-listed … without the Tribunal having the benefit of the Claimant's dates to avoid. The Claimant had already made arrangements to travel to Jamaica this month to visit her elderly mother, Dolly Henry, in Jamaica who has been unwell with a heart condition".

His comments were potentially misleading, particularly in circumstances where the Respondent had requested evidence to support any prior commitment to travel to Jamaica. It transpires that the Claimant's travel arrangements were only finalised on or around 7 September 2023, a full month after the parties had been notified of the new dates for the final hearing. It may well have been the case when Mr Swanson wrote to the Tribunal on 26 September 2023 that the final hearing then clashed with the Claimant's travel plans, but in my judgement it was incumbent upon the Claimant to disclose that those travel arrangements had been made in the knowledge that dates had already been fixed for the final hearing. Mr Swanson's failure to clarify this on 16 October 2023 is particularly troubling; in my judgement, his statement that when the case was re-listed the Claimant had already made "arrangements to travel to Jamaica" (my emphasis) was misleading. He might have made clear that when the hearing was notified to the parties on 7 August 2023 the Claimant had been thinking about travelling to Jamaica, indeed if it was the case that she had begun to make settled plans with her family, but he should also have disclosed that her flights had not been booked at the point that the final hearing was re-listed. There is no explanation as to why the Claimant took no steps to alert the Tribunal or the Respondent to her situation until 26 September 2023 or why an application to postpone was not made until 16 October 2023. If the Claimant acted unwisely, carelessly or even wifully in booking a flight to Jamaica in the knowledge that this clashed with the dates for the final hearing, she has compounded the situation by her tardiness in disclosing the arrangements and, through her representative, by painting a picture that the Tribunal might somehow be at fault in the matter by fixing dates without first securing her dates to avoid, when instead she had finalised her travel plans in the knowledge that new hearing dates had been fixed.

27. The Claimant travelled to Jamaica on 4 October 2023 and is not due to return until 9 November 2023. Her application to postpone was therefore submitted a full two weeks after she left the country. She withdrew her claim at or around 4.36pm yesterday afternoon. I am told by Mr Ali that Mr Swanson did not contact his instructing solicitor to let them know the claim was to be withdrawn or to seek to agree terms on which it might be withdrawn. Mr Ali was already in Cambridge by the time the withdrawal

was notified. His brief fee has been incurred and he has incurred wasted travel and overnight accommodation costs.

28. Mr Swanson did not attend today's hearing though was aware from the Tribunal's letter of 24 October 2023 that the application to postpone would be dealt with today. He was also aware that there was an outstanding application for costs by the Respondent.

The Law

29. Rule 76 of the Employment Tribunals Rules of Procedure provide as follows (as relevant):

> "(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; and
>
> (b) any claim or response had no reasonable prospect of success…"

30. Orders for costs in Employment Tribunals are the exception, not the rule. Costs awards are intended to be compensatory, not punitive. Whilst the Tribunal does not have to find a precise causal link between any relevant conduct and the costs being claimed, the costs awarded should be proportionate to the loss caused to the receiving party by the unreasonable conduct in question (Barnsley Metropolitan Council v Yerrakalva [2012] IRLR 78).

31. In Haydar v Pennine Acute NHS Trust UKEAT/0141/17 the Employment Appeal Tribunal held that the determination of a costs application is essentially a three stage process. Simler J, as she then was, said:

> "The words of the Rules are clear and require no gloss as the Court of Appeal has emphasised. They make clear (as is common ground) that there is, in effect, a three stage process to awarding costs. The first stage – stage one – is to ask whether the trigger for making a costs order has been established either because a party or his representative has behaved unreasonably, abusively, disruptively or vexatiously in bringing or conducting the proceedings or part of them, or because the claim had no reasonable prospects of success. The trigger, if it is satisfied, is a necessary but not sufficient condition for an award of costs. Simply because the costs jurisdiction is engaged, does not mean that costs will automatically follow. This is because, at the second stage – stage two – the Tribunal must consider whether to exercise its discretion to make an award of costs. The discretion is broad and unfettered. The third stage – stage three – only arises if the Tribunal decides to exercise its discretion to make an award of costs, and involves assessing the amount of costs to be ordered in accordance with Rule 78 ..."

32. As Simler J went on to say in Haydar, a paying party's ability to pay may be a factor at both the second and third stage – see Rule 84 of the Tribunals Rules of Procedure.

33. A claimant who is professionally represented may not be afforded the same degree of latitude as a litigant in person : Brooks v Nottingham University Hospitals NHS Trust UKEAT/0246/18/JOJ at [36].

34. It is not necessary for a respondent to write a costs warning before an application for costs is made, but it may be a discretionary factor depending on the circumstances of the case: Vaughan v London Borough of Lewisham [2013] IRLR 713 at [18]. The point was also made in Haydar. The unreasonable refusal of a Calderbank offer written without prejudice save as to costs may also be taken into account.

35. In awarding costs against a claimant who has withdrawn their claim, a Tribunal must consider whether they have conducted the proceedings unreasonably in all the circumstances, and not simply whether the late withdrawal of the claim was in itself unreasonable - McPherson v BNP Paribas (London Branch) [2004] IRLR 558. That means looking at the conduct overall, including whether the claimant should have accepted the situation at an earlier stage of proceedings and unreasonably delayed. In the context of Rule 76(1)(b) it was said by the Employment Appeal Tribunal in Beynon v Scadden [1999] IRLR 700 at [8]:

> "… A party who, despite having had an apparently conclusive opposition to his case made plain to him, persists with his case down to the hearing in the "Micawberish" hope that something might turn up and yet who does not even take such steps open to him to see whether anything is likely to turn up, runs a risk, when nothing does turn up, that he will be regarded as having been at least unreasonable in the conduct of his litigation."

Conclusion

36. I agree with Mr Ali that the Claimant's late withdrawal of her claim is to be viewed in the context of her overall unreasonable conduct of the proceedings. The Claimant has persistently failed to comply, or to comply fully, with the Tribunal's orders and directions, even when warned as to the potential consequences. The Respondent has satisfied me that she has also unreasonably failed to engage with it on various matters. I agree with Mr Ali that although the Claimant paid the deposit that Employment Judge McNeil KC ordered should be paid as a condition of continuing to advance her claim of unfair dismissal, the Claimant's failure over several months to serve a witness statement calls into question whether she was committed to the case and actively pursuing it. As of today, the Claimant's witness statement has been outstanding for approximately five and a half months.

37. The Respondent twice offered to settle the proceedings on the basis that the Claimant would withdraw her claims and they would not pursue any application for costs against her. The first offer, dated 14 July 2022, was made before the disability discrimination claim was struck out and noted, amongst other things, that the Claimant had failed to disclose her GP and

other relevant medical records. When the matter came before Employment Judge S Moore on 27 September 2022 the Claimant had still not disclosed her GP and other medical records. In my judgement, the Claimant unreasonably failed to heed the points being made by the Respondent's solicitors in their letter of 14 July 2022, pressing on regardless, without placing essential evidence before the Tribunal to support her claim to be disabled. Following the 27 September 2022 hearing, the Respondent's solicitors wrote to the Claimant again; she was by then representing herself. It was a detailed, carefully worded letter that repeated many of the points that had been made in their letter of 14 July 2022 to her former advisors. They encouraged the Claimant to seek further advice, including free/pro-bono advice as appropriate. It was to no avail. As in Beynon, the impression is that the Claimant has been waiting for something to turn up, rather than giving active thought with her current advisors to whether she should continue with a claim in circumstances where one element of it has been struck out and the remainder has been assessed as having little reasonable prospect of success.

38. There are other aspects of the Claimant's conduct of the proceedings that have been unreasonable. Notwithstanding Employment Judge S Moore's decision in September 2022 that the Claimant was not disabled by reason of MCTD, she has twice since claimed to be disabled by reason of that condition when seeking postponements of the final hearing, in the case of the 16 October 2023 application to postpone, relying upon the same letter from Dr Papadiki that had been available to Employment Judge S Moore when she decided that the Claimant was not disabled at the relevant time. But even if, which is not clear, that decision remains under appeal, the Claimant additionally failed to adduce any medical evidence in support of her claim in May 2023 that she was receiving treatment for rheumatoid arthritis and had recently been informed that she had pleural fluid in her lungs, possibly caused by rheumatoid arthritis and lupus, or in support of her further claim on 26 September 2023 that unspecified medical investigations were ongoing following tests showing further health problems.

39. Particularly given that she was professionally represented at the time, it was unreasonable for the Claimant not to have notified the Tribunal of any dates to avoid before the final hearing was re-listed, in circumstances where she had in mind travelling to Jamaica, the more so given that she, or at least her representative, knew that the Respondent had notified their own dates to the Tribunal on 29 June 2023. Thereafter, I consider that Mr Swanson failed to take due care to ensure that the Tribunal was not misled regarding her planned trip to Jamaica. In any event, it was unreasonable for the Claimant to finalise her travel arrangements in the knowledge that the case had been listed for a final hearing. It was also unreasonable to delay applying to postpone the final hearing if, when the October 2023 hearing dates were notified to the parties on 7 August 2023, the Claimant had in mind visiting her mother or indeed had settled plans in that regard. The Claimant unreasonably failed to give thought to the matter and in my judgment gave no thought at all to the fact that the Respondent would be compelled to spend time and money preparing for the final hearing. From 31 August 2023, the Claimant and Mr Swanson

were on notice that Counsel's brief fee was going to be incurred.

40. The Claimant's unreasonable conduct extends to the circumstances in which the claim was withdrawn. Little or no thought was given to the Respondent in the matter, or indeed to the Tribunal's wasted time in the matter. Mr Swanson did not attend today's hearing notwithstanding there is an outstanding application for costs.

41. Although the threshold test in Rule 76(1) is amply met in this case, that does not mean that a costs order follows automatically. I still retain a discretion in the matter. Subject to my comments below regarding the Claimant's ability to pay any costs that may be ordered, I have regard to the fact that on 25 April 2023 the Claimant was prescribed mirtzapine to help treat mood issues and that on 15 May 2023 her GP was of the view that she was not fit enough to attend the final hearing scheduled to begin on 22 May 2023. Clearly, those are mitigating factors in terms of her conduct during April and May 2023, and indeed up to 3 July 2023. However, there is no medical evidence to support the Claimant's ongoing failure beyond 3 July 2023 to serve her witness statement. Whatever health issues she may have experienced, this does not obviously explain why she made plans to travel to Jamaica without first informing the Respondent of her plans and seeking their agreement to a postponement or timely terms for the withdrawal of her claim. She has seemingly had no regard to their time and expense in the matter, and through her representative effectively misled the Tribunal as to when the travel arrangements were finalised. Whilst she is not to be punished for her or their unreasonable conduct, in the exercise of my discretion at the second stage, I have regard to the fact that the unreasonable conduct outlined above has extended over a number of months and has directly resulted in wasted time and legal costs for the Respondent. The Claimant has been in breach of the Tribunal's order to serve a witness statement for over five months, with no medical evidence to support her ongoing failure to do so. Whilst I consider that there are potentially grounds to order the Claimant to pay the Respondent's costs from July 2023, at the invitation of the Respondent and in the exercise of my judgement, and subject to Rule 84, I shall limit the costs order to the Respondent's costs of today, namely to Counsel's brief fee and travel and accommodation expenses.

42. Rule 84 of the Tribunals Rules of Procedure provides that a Tribunal may have regard to a claimant's ability to pay any costs in deciding whether to make a costs order and, if so, in what amount. Rule 84 confers a discretion on Tribunal Judges, albeit one which must be exercised judiciously. The Claimant has not sought to put any information before the Tribunal, though has been on notice of the Respondent's costs application since 10 May 2023. The deposit ordered to be paid was £100, but there is no further information in Employment Judge McNeill KC's Reasons as to why she settled upon that figure, save that she had made enquiries about the Claimant's means. She noted in her Reasons that the amount should be not at such a level as to deny the Claimant access to justice, a consideration that would not seem to apply here. I have no information as to the Claimant's funding arrangements with Justice Law Consultants or as to whether she paid for her travel to Jamaica and no other information

as to her means more generally. I consider that I cannot sensibly have regard to the Claimant's means in deciding whether or not to exercise my discretion at stage two. As to the amount of the costs order, the sums sought by the Respondent are £3,500 plus VAT in respect of Counsel's brief fee and a further £210 in respect of his train fare and overnight accommodation. In my judgement, the brief fee is eminently reasonable for a three-day hearing and I shall allow it in full. However, I shall not include the VAT element on the basis that this can effectively be recovered by the Respondent if it is registered for VAT. In my judgment, notwithstanding the deposit was set at £100, in the absence of any further specific information from the Claimant regarding her means I cannot fairly and justly have regard to her ability or otherwise to pay the costs in assessing and determining the amount of costs to be awarded to the Respondent. Should the Respondent take further action in the County Court to enforce the order for costs, the Court may well have regard to her means, for example in allowing her to settle the costs by instalments. Nothing I say can or should be taken to fetter the County Court's jurisdiction in the matter.

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Employment Judge Tynan

Date: 27 June 2024…….

Judgme.nt sent to the parties on

.16 July 2024.....

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For the Tribunal office

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https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/