



EMPLOYMENT TRIBUNALS

Claimant: Mrs Debra Phillips

Respondent: Aneurin Bevan University Health Board

Heard at: Wales Employment Tribunal (Paper hearing)

On: 17/02/2025

Before: Judge C Grubb

JUDGMENT

- 1) The Respondent's application for costs is dismissed.

REASONS

1. An application was made by the Respondent on 23rd October 2024 for an order that the Claimant pay the Respondent's costs in the sum of £20,000 following dismissal of her claims for disability discrimination on 20th September 2024.
2. Both parties have made submissions and consented for the matter to be dealt with on the papers and I consider it appropriate to do so.
3. *Rule 74 of the Tribunal Procedure Rules 2024* requires the tribunal to consider making a costs order where it considers that:
 - a. a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in bringing or conducting proceedings and/or
 - b. where any claim had no reasonable prospect of success.
4. Both of these grounds are relied on by the Respondent.
5. In relation to the second ground, EJ Vernon concluded on 20th September 2023 that the Claimant was disabled at the material time because of work-related stress and not by reason of dermatitis/allergy to latex. The claim was ultimately dismissed because the detriment complained of was not found to have been a result of the Claimant's work-related stress. Although some of the detriment may have been

- caused/resulted from her dermatitis/allergy.
6. The Respondent says that while the judgment made findings that were to a point critical of the Respondent, these were separate and distinct from any question as to the legal merit of the claims brought. The Claimant had benefit of representation in the early part of 2024 and so the Respondent assumes that the Claimant would have been advised on her poor prospects of success.
 7. While the claims were ultimately unsuccessful, the tribunal does not consider that the Claimant's prospects of success were so poor that they had no reasonable prospect of success. The issue of the Claimant's work-related stress and dermatitis/allergy were closely linked and required a detailed consideration of the facts and chronology in order to determine causation. As was noted in the Respondent's application, the tribunal were critical of certain aspects of the Respondent's conduct, and this required careful consideration in order to determine whether this was relevant to the material legal issues.
 8. The Respondent further states that the Claimant acted unreasonably in rejecting the Respondent's offers to settle made on 11th and 13th September 2024. The latter being in the sum of £18,000 for injury to feelings and £3,952.16 payment in lieu of notice.
 9. It is pertinent to note that at this point the Claimant was not legally represented. She continued to be classed as disabled by reason of stress. Under the circumstances and taking into account the potential overlap between work related stress and dermatitis, the tribunal does not consider that the Claimant acted unreasonably in rejecting these offers.

C Grubb

Employment Judge **C Grubb**

17/02/2025

Date

JUDGMENT & REASONS SENT TO THE PARTIES ON

18 February 2025

Kacey O'Brien
FOR THE TRIBUNAL OFFICE