



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr G Virgil

**Respondent:** TATA Consulting Service Limited

## COSTS JUDGMENT

### Background

1. The two-day hearing starting on 20 November 2024 had to be converted to case management as the bundle was not in a state whereby the hearing could proceed.
2. The respondent made an application for an award under Rule 74 of the Employment Tribunal Procedure Rules 2024. I gave directions for the claimant to send in written submissions. These have been received, along with submissions in response from the respondent.

### Claimant's position

3. The claimant's full position is set out in his submissions. I do not intend to repeat them in full here.
4. The claimant says that there was shared responsibility over the hearing bundle not being ready. He relies upon significant inconsistencies in the initial preparation such as:
  - 4.1 Duplication of emails;
  - 4.2 Incorrect dates;
  - 4.3 Omission of key documents; and
  - 4.4 Unauthorised alterations of his materials.
5. He says that despite repeated communications about these issues the respondent failed to address them or engage in meaningful collaboration leading to him seeking Tribunal guidance.
6. He also highlights problems caused by three changes of case handler at the respondent's end.
7. The claimant asserts that he did not intend to delay proceedings.

8. He then makes allegations that the costs application is an attempt to intimidate him into dropping the claims due to his untenable financial situations. He suggests that the respondent delayed meaningful engagement with him over the bundle in order to delay the hearing.

### **Respondent's position**

9. The Respondent strenuously denies the allegation that they have made unauthorised alterations to the Claimant's materials. They point out that this allegation (which was also made at the previous hearing) was unparticularised and unsubstantiated.
10. The respondent denies that the change in case handler had any adverse impact on the case. They also deny that they have failed to engage and have provided evidence of communication with the claimant. They also claim that the claimant was warned about the possibility of an adjournment on 6 November 2024 in a phone call.

### **Consideration**

11. I have considered the submissions made by both parties. I have also reviewed subsequent correspondence with the Tribunal which was sent in line with my directions at the previous hearing in order to narrow the issues with the bundle.
12. I find that the Claimant's allegations of tampering are unfounded. In the world of litigation this intimates a deliberate attempt to alter documents to create a misleading impression. In fact, the allegations which are now before the tribunal amount to redaction of personal information from pay slips (which is not unusual considering these documents may be referred to in a public hearing) and cells in an excel spreadsheet not being expanded to show the entirety of the text. Whilst not ideal, it is still fairly clear what the spreadsheet is showing. These allegations were unreasonably made, and it should not have taken the Tribunal adjourning a hearing and setting directions for the claimant to particularise them.
13. I also find that the respondent was engaging with the claimant on the contents of the bundle throughout the period running up to the hearing. I find that the claimant's complaints of emails being duplicated were not appropriate. Whilst emails were duplicated this was to preserve the integrity of email chains which needed to be placed in a number of times in order to preserve the chronological order of the bundle.
14. The claimant further, I find, acted unreasonably in refusing to agree to a chronological bundle and instead insisting on a thematic one. This was unreasonable behaviour because the directions sent to the parties with the notice of hearing required that the documents appear in the bundle "in date order".
15. Throughout the discussions over the bundle and in the previous hearing the claimant made explicit and implicit allegations that the respondent (and/or their solicitor) was trying to hide evidence in the bundle through the use of a

chronological bundle with duplication and by tampering with evidence. These allegations were, I find, totally unfounded.

16. I am therefore satisfied that the claimant's conduct satisfies the threshold test for unreasonable behaviour. Had he been more cooperative over the bundle, rather than throwing around spurious allegations, the hearing in November could have proceeded.
17. Having determined that the gateway is open, I then have to consider my discretion on whether to award costs.
18. I find that not only had the claimant acted unreasonably, but also that he had been warned by the respondent about his behaviour and the possibility of an adjournment. I take into account that he is a litigant in person, but I find that he was aware of the risks of his course of action. I do find that he did not intend to cause a delay, but his behaviour was reckless as to the risk of delay and he should have been aware of this risk. This conduct led to a wasted day of the Tribunal's time, an excessive delay in the resolution of this case, and relisting the matter is going to delay other cases seeking a hearing. Overall, I am satisfied that a costs order in principle is appropriate.
19. I then have to consider the sum to be awarded. In doing so I may take into account the claimant's means to pay.
20. The respondent seeks the sum of £20,000 for a two-day brief for counsel. This was an unfair dismissal claim with notice and holiday pay attached. Although there was a significant amount of material and a two-day listing, I see nothing out of the ordinary in this claim. Whilst the respondent is welcome to pay whatever they want to counsel, I find that this sum is excessive for what one would normally expect for a hearing of this type. (I do note that £20,000 is also conveniently the maximum award under Rule 76(1)(a) but both counsel and the respondent's solicitor have confirmed this figure to me, and I take it as being a true reflection of the sum owed to counsel by the respondent).
21. I would expect a fee of no more than £5,000 for counsel's attendance at trial in a matter such as this.
22. However, I also note that the claimant has exhausted his jobseeker's allowance, has no regular income and has expensive rent to pay (plus other taxes, utilities, food and travel etc). He declares that he has three months of savings.
23. When I consider all the factors in the round, I make an order for the claimant to pay the respondent's costs for the adjourned hearing in the sum of **£1,000**.

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Employment Judge D Wright  
Date: 3 February 2025

Sent to the parties on  
Date: 27 February 2025