



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104454/2023

Held in Glasgow on 17 March 2025

Employment Judge S MacLean

Mr K Kabbani

Claimant

Scottish Police Authority

Respondent

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the respondent's application for expenses is refused.

REASONS

Introduction

1. On 14 February 2025, Mr Miller for the respondent applied under rule 74(2)(c) of the Employment Tribunal Rules of Procedure 2024 (the rules) for an expenses order because an application to postpone a hearing listed from 10 to 14 February 2025 had been postponed made less than seven days before the hearing was to begin. Mr Miller said that the respondent had been put to unnecessary expense of £1,423.50 plus VAT.
2. Ms Bowman for the claimant opposed the application by email sent on 14 February 2025. She explained that the reason for the late application for postponement was that she did not have the supporting medical evidence. Ms Bowman had notified the Tribunal and the respondent of the intended application on 29 January 2025 on being made aware of the severity of the claimant's ill health. The application was formally made on 4 February 2025.

3. Ms Bowman argued that the claimant had done all he reasonably could have been expected to alert the Tribunal and the respondent to the possibility of the application and gather supporting evidence. To have made the application sooner would have been futile as the medial evidence was not available. The application being made sooner would not have decreased the respondent's preparation time.

Deliberations

4. Under rule 74(2)(c) of the rules I must consider making an expenses order because the application for postponement was made less than seven days before the hearing. I am not however required to make the order. I must consider my discretion to do so. I took into account the following factors.
5. Expenses in employment tribunals are the exception rather than the rule. The fundamental principle is that the purpose of the award of expenses is to compensate the party in whose favour the award is made and not to punish the paying party.
6. I was provided with information showing the time spent by Mr Miller and his trainee considering the application, attending the case management preliminary hearing, preparing a note of that preliminary hearing and corresponding with the witnesses and the tribunal. On the face of the information provided I was satisfied that this was the time spent by the respondent's representatives, but I did not know if this would be the fees that the respondent would incur.
7. I was not addressed on the ability of the claimant to pay any award. Indeed, I was unclear if he would be responsible for the expenses or if he is supported by a trade union who would pay.
8. The claimant is legally represented. There was no suggestion that Ms Bowman had been responsible for the delay in making the application. To the contrary, she has endeavoured to keep the Tribunal and the respondent informed throughout, and has acted diligently and professionally.

9. There was no evidence before me to suggest that the claimant had not kept Ms Bowman informed. While I acknowledge that she did not know about the claimant's hospitalisation in late January 2025, this was understandable in the circumstances. In any event on 29 January 2025 (more than seven days before the start of the hearing) Ms Bowman alerted the Tribunal and the respondent to the likelihood of the application being made and advised that medical opinion was being sought.
10. Given the background, the application was not totally unexpected. The respondent, as it is entitled to do, opposed the application. Given the submissions made by Mr Miller I consider it highly likely that this would have been the situation even if the application had been made sooner. I granted the application for postponement having heard representations from the parties.
11. Since January 2025 I have dealt with several postponement applications and have done so having regard to rule 3. While it is regrettable that the respondent has incurred expenses, I do not consider in the circumstances that I should exercise my discretion and grant the respondent's application. Accordingly, the application is refused.

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Date sent to parties : 21 March 2025