EMPLOYMENT TRIBUNALS

Claimant: Ms N McGill

Respondent: Mphasis UK Ltd

Heard at: London Central Employment Tribunal (By CVP)
On: 1 April 2025

Before: Employment Judge Keogh

Appearances
For the claimant: In person
For the respondent: Mr T Goodwin (Counsel)

JUDGMENT

1. The claimant must pay the sum of **£6,500.00** in respect of the respondent's costs by **9 September 2025**.

REASONS

1. At the hearing on 1 April 2025 the claimants claims were struck out on multiple grounds, namely that the claimant had insufficient service to bring an unfair dismissal claim, that the Tribunal did not have jurisdiction to hear the remaining complaints of unlawful deductions from wages and discrimination because the claimant was not an employee or worker, that the claim was an abuse of process because the claimant had not complied with the requirement to obtain an ACAS certificate prior to presenting the claim, that the claim had been brought out of time, and that the claim had no reasonable prospect of success.

2. The respondent made an oral application for costs at the hearing under Rule 74(2) of the Employment Tribunal Procedure Rules 2024 in the sum of £6,500, namely Counsel's brief fee for the hearing (excluding VAT as the respondent is VAT registered), on the basis that the claimant had acted abusively and vexatiously and that the claim had no real prospect of success. The respondent asserts that the claimant was unreasonable in both bringing a claim which she ought reasonably to have known had no prospects at all, and should have been further alerted to the weakness of

the claims by what was said by Employment Judge Forde in a hearing which took place on 5 February 2025. Further, that the claimant had conducted herself unreasonably in doing nothing to prepare for the hearing on 1 April 2025, and had made a 'cynical attempt' to bring the claims back in time by issuing an invoice for £720,000,000 for 6 days' work, which was 'breathtaking in its outlandishness'. It was asserted that the claimant had behaved far from the standards to be expected even of unrepresented litigants in person.

3. The claimant responded that she did not see how reasonable success should be used as a measure after the case. She needed better explanations of the process. She did not understand that she was receiving a warning from Employment Judge Forde. She did not consider she should pay costs as she should have a right to express her opinion.

4. In relation to means, the claimant, who is an Australian national, stated that she was on benefits in Australia equivalent to £405 per week, a few hundred pounds. She had company insurance to pay of £120 in the UK and was left with £80 per week. She had health insurance, food and petrol to pay so was in the negative by around £25,000 per year. She owned no property and had no savings. She was living on superannuation. She was due a payment in respect of a car accident claim, however indicated the Australian government would take back everything paid. She said variously it was likely she would get back the equivalent of around £5,000, or £1,500.

5. As the claimant had not given formal evidence in relation to her means and the respondent had not had any opportunity to cross examine her, the claimant was ordered to provide evidence in relation to her means within 14 days, on the basis that what was disclosed could only be used by the respondent for the purpose of the costs application.

6. What was provided by the claimant fell very short of what was ordered. The claimant provided generic information in relation to the Australian laws relating to clawback of income rather than any documentation relating to her actual claim, such as any schedule of loss. There was no detailed information provided in relation to income and outgoings. Bank statements showed low savings and confirmed the level of benefits being received. However there was other income shown which the claimant did not refer to in the hearing and which was not explained. The claimant contended she was doing 60 hours of unpaid work per week related to 'space research' and 15 hours per week unpaid charity work. There is no indication whether she might undertake paid work and when, given that on her own account she has the capacity to work up to 75 hours per week. The claimant asserted that her company, which appears to be a lingerie company, was due to pay very substantial sum of £1.5m to a well-known band for an event, and further significant sums in relation to various other matters. She notes that HMRC had asked her to produce a valuation for 'the broken diamond suspenders' and 'stolen technology' which it is understood from the hearing relates to stolen military technology she claims to have developed. It is not clear what the impact of any of this is on her personal finances, however if anything it appears that the claimant's company must be in good financial standing if the claimant is planning to make payments in excess of £1.5 million in the next year. The claimant also alludes to various potential claims against other individuals and companies.

7. Rule 74(2) provides:

   "The Tribunal must consider making a costs order or a preparation time order 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 of it, or the way that the proceedings, or part of it, have been conducted,
   (b) any claim, response or reply had no reasonable prospect of success, …"

8. Rule 76 provides:

   "(1) A costs order may order the paying party to pay—
   (a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party;
   …"

9. Rule 82 provides:

   "In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay."

10. In my view the claim in this matter had no reasonable prospects of success, and the claimant ought to have known that had she done even a minimum of research into the procedure for bringing claims, the time limits for bringing claims, and the necessary employment status required to make the complaints that she did. Even if, as a litigant in person, she did not understand such matters when the claim was brought, at the hearing on 5 February 2025 Employment Judge Forde explained to the claimant that a deposit order was being made because it appeared to him that the claims were substantially out of time, and because they appeared to have little or no prospect of success. He then listed the hearing which was before me for the strike out application to be heard. The only reason non-payment of the deposit orders was not in itself considered at the hearing was because the order sent out did not contain the technical information to enable the claimant to pay the sums. However the claimant ought to have been under no illusion at that point as to the weakness of her claims.

11. The threshold at which the Tribunal must consider making a costs application is therefore met. I have not gone on to consider whether the claimant also acted unreasonably, abusively and vexatiously.

12. I consider that the claims were so unmeritorious, for multiple reasons, that it is appropriate in this case that I should exercise my discretion to award costs.

13. I do not take into account the claimant's ability to pay. Rule 82 provides that this may be taken into account, however the information provided by the claimant falls short of that ordered, and includes information for which there is no explanation and shows a huge discrepancy between her stated

personal finances on the limited bank statements provided and the cash flow of her company, which she appears to rely on, that it is very difficult to make any real assessment of her actual means. Further, the sum sought by the respondent is relatively modest, only accounting for Counsel's fees for the hearing and not any other costs associated with defending this wholly unmeritorious claim.

14. In the circumstances I exercise my discretion to award the sum sought in full.

Note on date of judgment

15. This judgment was initially prepared on 3 June 2025, however as a result of administrative delay was not promulgated and the date for payment of costs passed. The judgment has therefore been amended to revise the date for payment. The Tribunal apologises for the delay in the judgment being sent out.

Employment Judge Keogh

26 August 2025

JUDGMENT SENT TO THE PARTIES ON

28 August 2025

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FOR THE TRIBUNAL OFFICE