



EMPLOYMENT TRIBUNALS

Claimant
Mr C Filipoiu

Respondent
Lifeways Community Care Ltd

Heard at: Bury St Edmunds (CVP)

16-19 June 2025

Before: Employment Judge S Moore
Mr D Bean
Ms B Handley-Howorth

COSTS JUDGMENT

The Respondent's application for costs is dismissed.

REASONS

1. Rule 74 of the Employment Tribunal Rules of Procedure 2024 provides as follows:

74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under [rule 73\(1\)\(b\)](#), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) 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, or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

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2. Following the Tribunal's judgment in this matter dismissing the complaint of race discrimination, the Respondent has made a written application for the costs of defending the claim pursuant to rules 74(1) and (2) above. The basis of the application is that the claim had no reasonable prospect of success. Further that on 1 March 2024 the Respondent had sent the Claimant a costs warning letter, stating that the claim had no reasonable prospect of success and offering him £10,000 by way of a commercial settlement, and that in continuing with the proceedings the Claimant thereby acted vexatiously, abusively, disruptively or otherwise unreasonably. Finally, the Claimant had also failed to comply with certain case management orders.
3. We are not satisfied that the claim had no reasonable prospect of success. We are satisfied the claim was brought in good faith in that the Claimant believed himself to have been the victim of discrimination. In the event, based on the evidence at the hearing, we were not satisfied that the Claimant had proved facts from which we could conclude, in the absence of an adequate explanation, that the Respondent had committed an act of discrimination against him. Nevertheless, that evidence also revealed that the Claimant had the necessary qualifications and highly relevant experience for the job in question, that no objective scoring matrix was used by the Respondent, that the notes of the interviews were in some respects inadequate, that there was a lack of diversity within the Respondent organisation and that the interviewing panel had a track record of appointing managers of white British ethnicity. If in oral evidence the Respondent's witnesses had been unable to explain their decisions and had not shown that the presentation aspect of the interview (the area in which the Claimant had the weakest performance) had in fact accounted for a surprising 50% of the allocated marks, the matters referred to above may well have been sufficient to reverse the burden of proof and/or give rise to an inference of race discrimination.
4. We are also not satisfied that the Claimant acted vexatiously, abusively, disruptively or otherwise unreasonably in rejecting the Respondent's offer of £10,000 and pursuing the litigation; the amount of £10,000 was less than he might reasonably have expected to receive if his claim had been successful and, as stated above, the claim was not one which we consider had no reasonable prospects of success. Further it appears that the Claimant was, from the outset, willing to engage in judicial mediation, but the Respondent was not so willing, which suggests that he did not take an intransigent and unreasonable attitude to the litigation.
5. Finally, we are not satisfied that there was any significant failure by the Claimant to comply with the Tribunal's case management orders which could justify the making of a costs order against him.

Approved By:

Employment Judge S Moore

Date: 26 September 2025

Sent to the parties on:

3 October 2025

For the Tribunal:

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