



EMPLOYMENT TRIBUNALS

Claimant: John Inokoba

Respondent: Mitie Limited

Heard at: London South (in public)

On: 1&2 October 2025
3 October 2025 (in chambers)

Before: Employment Judge D Wright

Appearances

For the claimant: In person

For the respondent: Mr Matthew Rudd, Counsel

JUDGMENT

1. The Claimant's claims of detriment on grounds related to Trade Union membership or activities are without merit and are dismissed.
2. Further, with the exception of the allegation that Mr Jesus did not respond to the claimant's email of 21 May 2024, the Claimant's claims are out of time and it was reasonably practicable to have brought them in time.
3. The time limit point has been decided against the Claimant for substantially the reasons given in the Deposit Order of 27 January 2025.
4. The deposit of £200 is to be paid to the Respondent under Rule 40(7)(b).
5. The claimant is to pay the sum of £2,500 towards the Respondent's costs. The deposit counts towards this sum.

REASONS FOR THE COSTS ORDER

1. I gave my decision on the substantive claim at the conclusion of the second day of the trial. The respondent then made an application for a costs order. There being insufficient time to give my decision on that, I reserved my decision rather than bringing the parties back for another day to give an oral decision. I did this to avoid the additional costs which would be incurred.

2. The respondent makes the application on the basis that the claim was dismissed on time limit points for substantially the same reasons as those in the deposit order made by EJ Corrigan on 27 January 2025.
3. In addition, they say that the Claimant was warned at the preliminary hearing that the substantive element of his claim was unlikely to succeed, although they concede that no deposit order was made. I note that the only comment in the CMO which relates to this is "*I agree the Claimant may well have difficulty showing the reason for the refusal of bereavement leave was union activity [...] but I cannot say there are little or no reasonable prospects of success.*" I have certainly seen stronger warnings in CMOs.
4. I am reminded that under Rule 40(7)(a), I must treat the claimant as having behaved unreasonably as I have found the time limit point against him on substantially the same basis as the deposit order.
5. I am satisfied that this opens the door to a potential cost order being made. It does not mandate me to make such an order, as I must consider all the circumstances of the claim.
6. Counting against the claimant I note the following:
 - 6.1 The deposit order;
 - 6.2 EJ Corrigan's comment about him having difficulty;
 - 6.3 The claimant's experience as a Trade Union representative;
 - 6.4 The claimant's knowledge of the Employment Tribunal, having successfully brought claims before.
7. In the Claimant's favour I note:
 - 7.1 The last allegation was in time (albeit it failed on substantive grounds) and therefore costs would have been incurred in defending that element of the claim in any event;
 - 7.2 The factual background to the in-time claim significantly overlaps with the factual background to the other claims;
 - 7.3 The respondent has, to an extent, been responsible for the claimant feeling the need to bring this claim by Mr Jesus' repeated failure to give the claimant the outcome of the grievance and the respondent's decision to downplay the importance of that, including in the final hearing.
8. When I consider the above, I am of the view that the deposit must be paid to the respondent. I am also of the view that it would be right to make a costs order, although I will be reducing the sum claimed significantly to account for the fact that much of the work would have been needed anyway in respect of the in-time claim. I put little weight on EJ Corrigan's comments on the substantive merits of the claim because she did not make a deposit order on it. The unreasonable behaviour, I find, was pursuing the out of time allegations.
9. For avoidance of doubt, I find that pursuing the in-time allegation was not unreasonable behaviour notwithstanding the weakness of the claim.

10. In terms of the sum to be awarded, the respondent has presented a costs schedule of £52,054.91 inclusive of VAT and £43,379.09 exclusive of VAT. This is made up of the following sums (which are exclusive of VAT):
 - 10.1 £1,151.59 for the previous solicitors reviewing papers, drafting the grounds of resistance and having a case management discussion.
 - 10.2 £17,450 for the current solicitors doing all the work between the filing of the ET1 and exchanging the list of documents (including an amended response).
 - 10.3 £17,000 for the work from exchange of documents to the conclusion of the hearing.
 - 10.4 Counsel's fee of £650 for the preliminary hearing.
 - 10.5 Counsel's fee of £3,500 for the final hearing and two refreshers of £1,500 (albeit that they accept one of these would need to be removed from the costs claimed as the hearing was completed in two rather than three days).
 - 10.6 Disbursements of £627.50.
11. My initial finding is that the costs claimed are not proportionate to the claim. This was not a particularly complicated claim and I am of the view that the work could have been done by a Grade C fee earner with support from a Grade D. On a 3:1 ratio of Grade C to D at London 3 banding a rough hourly rate of £190 would be appropriate. Although a fixed fee has been charged, that would equate to almost 90 hours of work being claimed to agree the bundle, produce the bundle, draft two witness statements, review the claimant's three short statements and instruct counsel. This is plainly excessive.
12. A similar sum has been claimed by the current solicitors for work done between the case management conference (when it appears they came on board) and the exchange of lists of documents. It seems that this fixed fee includes work which was done by the previous solicitors as it references all work since the ET1 was filed and is, in any event, excessive.
13. I see no issue with the sums claimed for counsel.
14. On a broadbrush approach, I would expect the sums claimed to be drastically reduced if this were to go to detailed assessment purely on a proportionality point.
15. I am of the view that this case needed no more than in the region of 50 hours which would be around £9,500 plus counsel's fee and disbursements giving a total in the region of £18,807.50 (inclusive of VAT on profit costs and counsel's fees).
16. However, I will further reduce that sum to take into account that one of the allegations was in time and the majority of the work done would have been required in any event.
17. I find that an appropriate figure to award here would be £2,500. The deposit will be counted against that figure, leaving the claimant the sum of £2,300 to pay.

18. I have considered the claimant's low income and caring responsibilities here but am of the view that a costs order should be made notwithstanding the fact this may cause him difficulties. The respondent is reminded that it is within their gift to agree a payment plan should they feel it is appropriate.

Approved by:

Employment Judge D Wright
03 October 2025