



EMPLOYMENT TRIBUNALS

Claimant: Steve Jones

Respondent: pladis UK Ltd

COSTS JUDGMENT

The respondent's application for costs is refused.

REASONS

Background

1. A final hearing of the claimant's claims took place on 13 and 14 March 2025. The hearing took place as a remote hearing by way of CVP. I gave oral judgment and reasons dismissing the claimant's claims of unfair dismissal and for holiday pay on 14 March 2025 and the written record of that decision dated 14 March 2025 was sent to the parties on 21 March 2025. The respondent applied in time for written reasons and written reasons dated 18 April 2025 were sent to the parties on 24 April 2025.
2. On 9 April 2025, the respondent applied for costs in the amount of £13,819.62 excluding VAT on the basis that there was no reasonable prospect of success and the claimant had acted unreasonably in continuing proceedings where he had little or no reasonable prospects of success. Reference was made to a without prejudice save as to costs letter sent on 3 March 2025.
3. On 20 June 2025, the tribunal wrote to the parties. The claimant was provided with a period of 28 days and as such a reasonable opportunity to make representations addressing the respondent's costs application. The claimant was ordered to provide any representations and set out information as regards his ability to pay any amount ordered including details of his financial circumstances. The parties were asked to indicate whether they wished for the costs application to be determined at a hearing or were content for the application to be decided on the papers. The respondent was asked to provide the attachments referred to in their written application as these could not be located on the tribunal file. These were duly provided.
4. On 8 July 2025, the respondent indicated that they were content for the matter to be dealt with on the papers.
5. On 26 August 2025, the tribunal wrote to the parties to note that as no communication had been received from the claimant and the respondent was content for the matter to be decided on the papers, the tribunal would consider and

determine the application after a period of 14 days.

6. By way of email dated 26 August 2025, the respondent forwarded to the tribunal a copy of a claimant's email dated 20 June 2025 setting out the claimant's position on the respondent's costs application noting that it appeared the tribunal was not aware of the claimant's correspondence.
7. Accordingly, the respondent's costs application came before me for decision on the papers.

The Respondent's Costs Application

8. The respondent's application is as follows:

"I am writing to apply for a costs order under the Employment Tribunal Procedure Rule 74(2)(b), on the ground that the above claim ("the Claim") had no reasonable prospect of success, and also under Rule 74(2)(a), on the ground that the Claimant acted unreasonably in continuing proceedings which had little or no reasonable prospect of success. I have asked the Tribunal for full written reasons for the judgment, and await their receipt.

The Respondent warned the Claimant via a without prejudice save as to costs email dated 3rd March that they intended to make a costs application if he did not withdraw the Claim within the following seven days. He did not withdraw the Claim, which was dismissed in its entirety.

The reason that I submit that the Claim had no reasonable prospect of success is that firstly the judgment made clear that the Claimant knew or ought to have known about the very clear requirements of the Respondent's Code of Conduct and Dignity at Work Policy ("the Policies").

In particular the Policies referred to the additional responsibilities of a manager, with the judgment pointing out that the Claimant was a senior manager within the Respondent's organisation.

In particular, the Policies set out a clear definition of harassment, which substantially mirrored the definition in the Equality Act, emphasising that the employee's actions and behaviours will be judged by their impact on others both within and outside the workplace.

The Policies also state that it is the effect of the behaviour which matters, and the judge clearly found that the effect of the Claimant's actions in slapping the bottom of a celebrity presenter on stage in front of 200-300 amounted to gross misconduct because of the effect of his actions on the other employees at the event.

The judge found no flaw with the investigation or the disciplinary or appeal process, and so I submit that the Claimant should have known from the start that the Claim had no reasonable prospect of success. The standards of conduct required by the Respondent were made clear to him at the start of the investigation, there was no dispute as to the facts, and there can be no doubt that the action of slapping a celebrity's bottom onstage in front of 200-300 people was entirely unacceptable behaviour, which in the absence of any flaw in the investigation and disciplinary process, could only amount to gross misconduct, rendering his dismissal inevitably fair.

I submit that his holiday pay claim also had no reasonable prospect of success, as the Claimant did not provide any evidence to demonstrate that he had not been paid in accordance with the Respondent's holiday procedures.

I therefore submit that the Tribunal must consider making a costs order in accordance with Rule 74(2), and attach my invoices to the Respondent, and the time breakdown schedules referred to therein. To summarise, my fees

amounted to £13,819.62 excluding VAT (£16,562.34 including VAT) in respect of 79.31 hours worked plus travel and overnight expenses disbursement for the final hearing.

In view of the costs which could have been saved had the Claimant withdrawn the Claim at an early stage, it would be in accordance with the overriding objective to make an award of costs, which have been incurred entirely unnecessarily.”

9. The claimant’s written representations in reply provide:

“brought this claim in good faith, based on my honest belief that I had been unfairly dismissed. The claim raised genuine legal and factual issues, including whether the disciplinary process was fair, whether the investigation was sufficiently thorough, and whether dismissal fell within the range of reasonable responses. These were all live issues considered in detail by the Tribunal and were not misconceived or vexatious.

I did not act unreasonably during proceedings. I complied with all Tribunal directions, attended all hearings, provided evidence and submissions as required, and engaged in the process professionally and respectfully, despite being a litigant in person.

The Tribunal’s own findings confirm that the claim was not without merit. In the holiday pay matter, the Tribunal accepted my argument on key factual points, including that the correct accrual rate was 0.48, and that the leave year had been varied by custom and practice. These were only resolved through judicial determination, not concession.

The Tribunal judgment demonstrates that the case involved substantial legal interpretation and credibility assessments, which were carefully weighed. It was not summarily struck out or dismissed as frivolous, and therefore does not meet the threshold under Rule 76 for a costs order.

Several matters were only resolved because I brought the claim. I received my final P45 and reimbursement for expenses after proceedings were initiated, which demonstrates that the claim had a practical and necessary purpose.

I cooperated with Tribunal process by withdrawing my objection to the amended grounds of resistance and presented genuine concerns about fairness, which the Tribunal considered seriously.

The Respondent’s costs claim of over £16,000 is disproportionate to a two-day hearing. I respectfully ask the Tribunal to consider whether such costs are just and reasonable, especially in light of the overriding objective.

I am currently seeking further work, and a costs order would cause my family serious financial hardship. I ask the Tribunal to take my means into account under Rule 84, and if a costs award is considered appropriate, to consider capping or suspending enforcement.”

The Law

10. Rules 73 to 76 of the Employment Tribunal Procedure Rules 2024 (“the Procedure Rules”) deal with costs as follows:

Costs orders and preparation time orders

73.—(1) A costs order is an order that the paying party make a payment to—

(a) the receiving party in respect of the costs that the receiving party has incurred while represented by a legal representative or a lay representative, or

(b) another party or witness in respect of expenses incurred, or to be incurred, for the purpose of, or in connection with, an individual’s attendance as a witness at a hearing.

(2) A preparation time order is an order that the paying party make a payment to the

receiving party in respect of the receiving party's preparation time while not represented by a legal representative.

(3) A costs order under paragraph (1)(a) and a preparation time order may not both be made in favour of the same party in the same proceedings.

(4) The Tribunal may decide in the course of the proceedings that a party is entitled to either a costs order or a preparation time order but may defer its decision on the kind of order to make until a later stage in the proceedings.

When a costs order or a preparation time order may or must be made

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.

(3) The Tribunal may also make a costs order or a preparation time order (as appropriate) on the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned.

(4) Where in proceedings for unfair dismissal a final hearing is postponed or adjourned, the Tribunal must order the respondent to pay the costs incurred as a result of the postponement or adjournment if—

(a) the claimant has expressed a wish to be reinstated or re-engaged which has been communicated to the respondent not less than 7 days before the hearing, and

(b) the postponement or adjournment of that hearing has been caused by the respondent's failure, without a special reason, to adduce reasonable evidence as to the availability of the job from which the claimant was dismissed or of comparable or suitable employment.

Procedure

75.—(1) A party may apply for a costs order or a preparation time order at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order or a preparation time order against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

The amount of a costs order

76.—(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;

(b) the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—

(i) in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998(33), or by the Tribunal applying the same principles;

(ii) in Scotland, by way of taxation carried out either by the auditor of court in accordance with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019(34), or by the Tribunal applying the same principles;

(c) another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses for the purpose of, or in connection with, an individual's attendance as a witness at a hearing;

(d) an amount agreed between the paying party and the receiving party in respect of the receiving party's costs.

(2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative must not exceed the rate under rule 77(2) (the amount of a preparation time order).

(3) A costs order under sub-paragraphs (b) to (d) of paragraph (1) may exceed £20,000.

11. Rule 82 of the Procedure Rules provides as follows:

Ability to pay

82. 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.

12. A structured three stage approach must be adopted by the Tribunal as follows: (1) a Rule 76(2) ground or 'gateway' must be established; (2) if so, the Tribunal must consider whether to exercise discretion to make an award; and (3) if so, the Tribunal must consider the amount and form of the award.
13. Where reliance is placed on the ground at Procedure Rule 74(2)(a), the Tribunal must look at the totality of the "nature, gravity and effect" of the conduct in the round, McPherson v BNP Paribas [2004] ICR 1398 CA; Barnsley Metropolitan Borough Council v Yerrakalva [2012] IRLR 78 CA.
14. In this context, "unreasonable" carries its ordinary everyday objective meaning, Dyer v Secretary of State for Employment EAT 183/73 and can include pursuing an unmeritorious claim and the Tribunal can have regard to what the paying party knew or ought to have known, Keskar v Governors of All Saints CoE School [1991] ICR 493. The question is whether the paying party's approach was a reasonable one and this is an objective question bearing in mind that different approaches may be reasonable, Vaughan v Lewisham LBC [2013] IRLR 713 EAT.
15. In Lake v Arco Grating (UK) Ltd EAT 0511/04, the EAT held that a failure to accept an offer not to pursue costs if proceedings were withdrawn could not of itself constitute action in bringing or conducting the proceedings. A tribunal may take account of a refusal of such an offer if considering whether to award costs.
16. Where reliance is placed on the ground at Procedure Rule 74(2)(b) that any claim had no reasonable prospect of success, an objective assessment is required as to whether the party had reasonable grounds for thinking they were in the right when they brought the claim. In Radia v Jefferies International Ltd UKEAT/0007/18 EAT guidance was provided as to how the Tribunal should approach the assessment of whether this ground applies. The EAT explained that the test was whether the claim or defence had no reasonable prospect of success based on the information that was known or reasonably available at the start and to determine how the prospects of success looked to the paying party at the start (and when the hearing was yet to take place). As such, the Tribunal to consider information or evidence available that casts light on that question and to ignore information or evidence not available at that earlier point in time.
17. An award of costs is the exception rather than the rule in Employment Tribunal proceedings, Gee v Shell UK Ltd [2003] IRLR 82, CA. Costs orders are compensatory and not punitive, Lodwick v Southwark LBC [2004] ICR 884 CA. The award can only cover costs that are 'reasonably and necessarily' incurred, Barnsley Metropolitan Borough Council v Yerrakalva [2012] IRLR 78 CA. There must be a link between the costs incurred and the conduct although this does not require a precise causal link to be identified given the Tribunal's broad discretion.
18. Other relevant factors may be whether a party has been warned but continues and as such was aware what might happen, Oko-Jaja v Lewisham LBC UKEAT/0417/00 or whether a party failed to apply for strike out on the grounds that the paying party's case has no reasonable prospect of success although this may not of itself evidence that the claims had any reasonable prospect of success.
19. Any order for unassessed costs must be for a fixed sum, Lothian Health Board v

Johnstone [1981] IRLR 321 EAT.

20. Paragraph 1 of Guidance Note 7: Costs attached to the General Case Management Presidential Guidance dated 22 January 2018 provides that, “The basic principle is that the Employment Tribunals do not order one party to pay the costs which the other party has incurred in bringing or defending a claim. However, there are a number of important exceptions to the basic principle, as explained below.” Paragraph 13 refers to a party acting unreasonably in the bringing or conduct of proceedings or where the claim had no reasonable prospect of success and at paragraph 14 that “The circumstances described at paragraph 13 require a Tribunal to consider first whether the criteria for an order are met. Each case will turn on its own facts. Examples from decided cases include that it could be unreasonable where a party has based the claim or defence on something which is untrue. That is not the same as something which they have simply failed to prove. Nor does it mean something they reasonably misunderstood. Abusive or disruptive conduct would include insulting the other party or its representative or sending numerous unnecessary emails.”
21. Paragraph 15 of the Presidential Guidance on Panel Composition provides that “Save where the Employment Appeal Tribunal has ordered otherwise in respect of a remitted case, it is likely to further the interests of justice and accord with the overriding objective to retain the same panel composition throughout, such that subsequent applications are considered by the tribunal that made the original decision on liability.”

Discussion and Conclusions

Procedure Rule 74(2)(a) – acted unreasonably

22. In accordance with the three-stage approach, I turn first to consider whether there is a ‘gateway’ or ground for making any award of costs. The respondent relies on Procedure Rule 74(2)(a) and in particular contends that the claimant acted unreasonably in continuing proceedings which had no or little reasonable prospects of success.
23. The respondent refers to an offer made on 3 March and thus 10 days before proceedings were due to start. The detailed contents of that letter and as such what the claimant, a litigant in person, was told are not available to me. Referring to the case law, I consider that the claimant’s failure to accede to this offer is not of itself unreasonable conduct or acting unreasonably in continuing proceedings. In Lake v Arco, the EAT noted that parties frequently make threats of costs applications prior to hearings and the focus needs to be on whether there was an arguable case even if proceedings were ultimately unsuccessful.
24. The claimant highlights that acting as a litigant in person he complied with all directions, engaged in the process respectfully and did not act unreasonably during proceedings and I do not find otherwise. The respondent does not identify or rely on any conduct submitted to be unreasonable other than continuing proceedings said to have no or little reasonable prospects of success.
25. I note that the case law provides that unreasonable conduct can include pursuing an unmeritorious claim. In these proceedings, there was no application for strike out and/or a deposit order at an earlier stage on the basis that the claim had no or little reasonable prospects of success. I acknowledge that any such application may well have been disproportionate having regard to the time any such hearing might take against the two-day allocation for the final merits hearing. That said, there is no indication that the claimant, acting as a litigant in person, was put on notice that his claim was considered to wholly lack merit. The respondent’s original and amended grounds of resistance do not set out any contention that the claims were considered to lack merit or to have no or little reasonable prospects of success in setting out the respondent’s defence against the allegations raised. There is no finding in the decision that any of the allegations raised had no

reasonable prospects of success or any reference to any of the allegations having been inherently hopeless or unmeritorious.

26. I have concluded that the claimant did not act unreasonably in continuing proceedings in all the circumstances.

Procedure Rule 74(2)(b) – no reasonable prospects of success

27. I turn to consider whether the claim had no reasonable prospects of success. This requires an objective assessment of whether the party had reasonable grounds for thinking they were in the right when they brought the claim based on the information known and reasonably available at the outset.
28. I note first of all that the claimant was acting as a litigant in person throughout these proceedings.
29. The respondent submits that the claimant ought to have known that his dismissal was fair given his conduct and in light of the respondent's policies. The respondent also refers to and relies on findings made by the tribunal. The claimant submits that his claim was brought based on his honest belief that he had been unfairly dismissed. The claimant refers to issues in dispute as to whether the disciplinary process was fair and that he presented genuine concerns about fairness which the tribunal considered seriously and that the decision records 'legal interpretation and credibility assessments, which were carefully weighed'.
30. I accept that the claimant had an honest belief that he had been unfairly dismissed. The focus of his claim was that the investigation was not reasonable due failure to interview the presenter he directly touched in front of others at a work event and that during the disciplinary process the goalposts were moved and that the allegation against him was insufficiently clear or re-framed such that he could not reasonably respond to it.
31. The findings and conclusions reached by the tribunal were reached after hearing oral evidence and weighing that evidence together with all the documentary evidence available. Those findings do not determine the issue as to what was known or ought reasonably to have been appreciated by the claimant at the start of proceedings. I acknowledge that material such as the respondent's policies was available, setting out what was considered by the respondent to amount to misconduct and that harassment was defined as encompassing the impact or effect of conduct on others and not solely the direct recipient of any physical contact.
32. A fair and reasonable investigation usually involves interviewing witnesses and whilst there is no need to interview all witnesses if a fact has been established, an investigation may be held to be flawed if an obvious witness is overlooked. As such, failure to interview a witness may or may not be fair in context. The decision records evidence given by the dismissing officer that 'he had reached the view the conduct was not unwanted ... she may have said something different' if interviewed after but the fact of the claimant slapping the presenter was not the full scope of the investigation. I cannot hold that pursuit of an allegation that an investigation was flawed due failure to interview a person at the centre of the incident giving rise to the disciplinary proceedings amounts to circumstances which the claimant knew or ought reasonably to know had no reasonable prospects of success at the time he brought proceedings.
33. In relation to the framing of the allegation, the decision records that the appeal officer acknowledged that 'on reflection the allegation could have been clearer that that the sexual harassment of the presenter was only one of the facets being considered'. I cannot hold that pursuit of an allegation that the disciplinary

proceedings were unfair due framing of the allegation the claimant was confronted with and given the information that would have been available to the claimant at that time was pursuing a claim he knew or ought to have appreciated had no reasonable prospects of success.

34. Having assessed matters from what the claimant knew at the earlier relevant times, I have concluded that the claimant cannot be regarded as having had no reasonable grounds for thinking he was in the right in that he considered he had been dismissed further to an unfair procedure.
35. Accordingly, I conclude that the respondent has not established that there is a ground or gateway for considering whether it is appropriate to make any award of costs.
36. It is therefore not necessary to consider whether it is appropriate to exercise discretion to make any award of costs or to consider the amount or form of any award.
37. The respondent's application for costs is therefore refused.

Judge Peer

6 October 2025

JUDGMENT SENT TO THE PARTIES ON

16 October 2025

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FOR THE TRIBUNAL OFFICE