



EMPLOYMENT TRIBUNALS

Claimant: Mr A West

Respondent: David Lloyd Leisure Limited

JUDGMENT

1. This matter was remitted to the Employment Tribunal by HHJ Tariq Sadiq on the 9 December 2025. The parties agreed that the matter be considered upon the papers.

2. The EAT held:

The appeal against the liability decision regarding unfair dismissal was unsuccessful. The appeal against the costs decision succeeded in one narrow respect only. The ET had not considered the effect of the unreasonable conduct and causation in accordance with the guidance given in Dowding v The Character Group Plc [2024] EAT 153 and had not adequately explained its decision in this respect.

3. The EAT said in paragraph 66 that the Tribunal does not need to identify a precise causal link between the conduct leading to the costs ordered and the amount of costs thereby incurred, it does need to give some consideration to what effects that conduct had, as well as its nature and gravity, and causation in that sense is not irrelevant (Dowding v The Character Group Plc [2024] EAT 153 citing McPherson v BNP Paribas [2004] ICR 1390 CA and Yerrakalva v Barnsley MBC [2012] ICR 420).
4. The unreasonable conduct found was the claim was misconceived and that it was unreasonably pursued and also, that the claimant and or his representative had engaged in unreasonable conduct by misleading the Tribunal as to the circumstances of TLS.
5. The two sources of unreasonable conduct identified and considered by the Tribunal to have the effect of causing the respondent to unnecessarily incur legal costs. Had the claimant recognised that his claim had no reasonable prospects of success and withdrawn it, particularly once the respondent had given a costs warning on the 20 January 2023, the respondent would not have incurred further costs.
6. The respondent referred to the claimant and/or his representative 'playing lawyer' and to a 'game'. The Tribunal finds that Mr West (the claimant's

father) wished to appear that TLS was a substantive organisation which represented the claimant. It was not. Mr West could have easily represented the claimant as a lay representative. There was no need to pose as a quasi-legal representative. It added nothing to the representation. What it did do, was to cause the respondent to have to give the status of TLS additional consideration; instead of simply accepting Mr West was representing his son as a lay representative. It also caused the respondent and the Tribunal to have to raise additional questions about TLS. The respondent suggests that the correspondence with TLS added around £1,000 plus vat to its legal costs.

7. The claimant set out that TLS was a case management company to which he had paid fees, which was not registered with the FSA, but however was subject to an exemption (which was never properly evidenced). The fact the claimant misled the respondent and the Tribunal regarding TLS and that factor undermined his credibility.
8. Notwithstanding that however, the claimant's case was misconceived (the unreasonable conduct) and taking into account the requirements of Rule 76(1)(a) and (b) and the relevant authorities, resulted in the Tribunal finding that conduct caused the respondent to incur unnecessary legal costs in defending the claim.
9. Although invited to do so, the Tribunal sees no basis for revisiting the amount of costs awarded to the respondent.

Approved by:

Employment Judge Wright
16 February 2026

JUDGMENT SENT TO THE PARTIES
ON
2 March 2026

FOR THE TRIBUNAL OFFICE

P Wing

Notes

Written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.