EMPLOYMENT TRIBUNALS

Claimant: Mr A Parhiar

Respondent: BrightHR Ltd

Heard at: Manchester Employment Tribunal (by CVP)

On: 13 March 2026

Before: Employment Judge Dunlop

Representation

Claimant: In person
Respondent: Mr Y Mahmood (Solicitor)

JUDGMENT

1. The claimant shall pay a contribution towards the costs of the respondent defending the claim in the sum of £3,500.00 (inclusive of VAT).

REASONS

Introduction

1. The claimant commenced work for the respondent in January 2023. He was summarily dismissed in November 2023. On 8 December 2023 he presented a claim to the Tribunal raising complaints of wrongful dismissal (i.e. a claim for notice pay) and discrimination of grounds of disability.

2. There was an initial preliminary hearing for case management and then a public preliminary hearing held on 23 May 2025 to determine whether the claimant was a disabled person within the meaning of s.6 Equality Act 2010. Employment Judge Eeley found that he was not. The only claim which proceeded to trial, therefore, was the wrongful dismissal claim.

3. In an oral judgment given on 5 December 2025 I determined that Mr Parhiar had committed gross misconduct, and that the respondent was entitled to summarily dismiss him. Written reasons for that decision were requested and sent to the parties on 24 February 2026.

4. On 15 December 2024, the respondent applied for its costs, the application being supported by a schedule of costs totalling £12,928.44 (inclusive of VAT).

5. This was a CVP hearing listed to determine the costs application.

The Hearing

6. The hearing was conducted in two phases. Firstly, I heard from the parties as to whether a costs order was appropriate in principle. Mr Mahmood wished to cross examine Mr Parhiar on some of the documents in the bundle in respect of that decision, and I allowed him to do so for a limited time period. Having heard from both parties, I informed them that I had determined that a costs order was appropriate in principle, and that I would then hear about Mr Parhiar's financial means in order to determine the appropriate amount of the order. (I emphasised that it was still possible, at that point, that my final decision would be to make no order at all.)

7. The bundle prepared by the respondent contained correspondence indicating that the respondent had (properly) informed Mr Parhiar in advance of the hearing that his means may be taken into account in the Tribunal's decision as regards to costs, and had invited him to submit any evidence that he wished to as to his means for inclusion in the bundle. Mr Parhiar had submitted very limited information about benefits he had received. He had declined to submit his bank statements, and had told the respondent that he would only do so if ordered to by the Tribunal.

8. At the outset of the hearing, I explained that the Tribunal had a discretion to take into the claimant's financial means, and that if Mr Parhiar wished to argue that a costs order would be difficult for him to pay, or would cause him financial hardship, the onus was on him to provide evidence supporting that assertion. We had a 25 minute break whilst I considered the 'in principle' determination, and I invited Mr Parhiar to produce further documents during that adjournment, which he did, as discussed further below.

9. Following the adjournment I announced my determination that a costs order was appropriate in principle, and heard evidence (including cross examination) from Mr Parhiar on his means, I then heard submissions again from both sides as to the question of quantum of the order, before giving a short oral Judgment.

10. Mr Parhiar attempted to re-argue the case following my Judgment, which he was evidently very unhappy with. I informed the parties that I would provide a full written Judgment to enable Mr Parhiar to consider his position and to take any subsequent steps he considered to be necessary.

Relevant Legal Principles

11. Rule 74 Employment Tribunal Rules of Procedure 2024 sets out a three-stage process to be adopted when the Tribunal is considering a costs application. I must first consider whether the claimant's conduct falls within the descriptions contained in the rule 74(2) i.e. the gateways. If so, the Tribunal's costs jurisdiction is engaged, but this does not necessarily mean that an order will be made. I have a discretion, and I must decide whether it is appropriate to exercise that discretion. Finally, if it is appropriate, I must decide the amount of any award in accordance with Rule 76. Rule 82 provides the discretion to take into account the financial means of the paying party, as referred to above.

12. The respondent's application is pursued under two of the available 'costs gateways' set out in Specifically:
    (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.

13. I remind myself that costs are the exception in this jurisdiction and that there is a high threshold in establishing unreasonable behaviour: **Gee v Shell UK Ltd [2003] IRLR 82** and **Salinas v Bear Stearns International Holdings Inc [2005] ICR 1117**.

14. I also remind myself of **Yerrakalva v Barnsley Metropolitan Council [2012] ICR 240** which establishes that costs awarded need not be directly attributable to the impugned conduct, but that I must take into account the nature, gravity and effect of the unreasonable conduct, and ensure that I am looking at the whole picture.

Submissions, discussion and conclusions

Gateway – unreasonable conduct

15. This assertion relied on the claimant's conduct, evidenced in inter-partes correspondence, of failing to comply with case management orders to prepare the case for final hearing. It is worth noting that it is a very rare for a case to come before this Tribunal for final hearing in circumstances where both parties have fully complied with all the case management orders in a timely way. The costs jurisdiction is not intended to be invoked in 'run of the mill' cases where there have been delays or other minor difficulties in getting a case ready for hearing, particularly where the party at fault is a litigant in person. However, I agree with the respondent that Mr Parhiar's default goes beyond that sort of difficulty.

16. In autumn 2024 the respondent made an Unless Order application, pointing out that it still did not know the case it had to meet and that medical evidence had not been provided after long delays. These matters were ultimately resolved and case management orders for the final hearing were set out by Employment Judge Eeley. Again, however, the claimant failed to comply in a wholesale way, leading to the respondent sending a great deal of 'chasing' correspondence and ultimately completing disclosure and preparing the final hearing bundle on a unilateral basis. During correspondence in relation

to witness statements, the claimant send a brief email on 10 October 2025 merely stating "I have nothing to exchange". The respondent therefore also sent its statement on a unilateral basis.

17. On 17 November 2025 the respondent sent a details costs warning letter to Mr Parhiar asserting both that the claim appeared to be without merit and that, by failing to comply with case management orders, Mr Parhiar appeared to be failing to actively pursue it.

18. In response, Mr Parhiar sent a detailed one-page letter setting out a without prejudice save as to costs offer of £1,750.00 (as against the full value of the notice pay claim of just under £2,500.00). It was apparent from that letter that the main points relied on by Mr Parhiar were allegations of procedural unfairness.

19. In a further letter dated 25 November 2025, the respondent rejected this offer and made its own 'drop hands' offer again, on a without prejudice save as to costs basis. This offer pointed out, correctly, that the procedural allegations would not be relevant to the Tribunal's determination of the wrongful dismissal claim. This point was expanded upon in a further letter of 26 November, setting out excerpts from the ACAS website and from the Practical Law publication in support of the respondent's proposition. Mr Parhiar's terse response was "See you in the tribunal". Following this exchange, however, he did provide a witness statement.

20. Mr Parhiar acknowledged today that he did not comply with case management orders and blamed his mental health conditions. He asserted repeatedly that he had provided evidence of these. However, all that has been provided is proof that he has been prescribed a wide range of medications, some of which are used in cases of depression and/or anxiety. There has never been any medical evidence to state that Mr Parhiar was unable to comply with the case management orders, either generally, or within a particular time scale. He never asked for any extensions or gave indications that he was seeking to comply with the orders but struggling to do so (at least in the period between the second preliminary hearing and the final hearing). He has taken no responsibility for advancing his claim.

21. In those circumstances, I am satisfied that the gateway condition at 74(2)(a) is met, and I there "must" consider making a costs order.

Gateway – no reasonable prospect of success

22. As explained in my written reasons for the Judgment dismissing the claim, the issue before the Tribunal was narrow – had Mr Parhiar acted in a way such as to entitle the respondent to summarily dismiss him? The issues of procedural fairness which Mr Parhiar tried to raise were entirely irrelevant (as the respondent had tried to inform him from at least 25/26 November).

23. I agreed with Mr Parhiar that the question of whether his actions amounted to gross misconduct depended on whether he had acted honestly or dishonestly in making the recordings that he did on the respondent's case management system. Although Mr Parhiar argued that his claim was not weak, as the Tribunal had refused to strike it out at an earlier stage, my

Judgment is that, from the Tribunal's perspective, there was a need to hear evidence in order for a determination to be made regarding the dishonesty question.

24. However, Mr Parhiar has known all along what his position is about dishonesty, and the evidence that he would be able to give. I refer to paragraph 25 of my earlier written reasons. Specifically, Mr Parhiar chose to give no explanation for his conduct in his witness statement and, in oral evidence, attempted to deflect the question before giving answers which were vague, confusing and contradictory.

25. I am satisfied that Mr Parhiar must have known from the outset that he had no real answer to the allegation of misconduct. That is why his arguments in the without prejudice letters focused on the procedural points, which were irrelevant. Although acting in person, Mr Parhiar is not an unsophisticated litigant. He works in the field of employment relations advice. Even if (which I doubt) he was unable to work out for himself that this was a hopeless claim, he definitely ought to have been able to work that out when he received the respondent's detailed without prejudice letters.

26. In those circumstances, I am satisfied that the second 'gateway' relied on the respondent (Rule 74 (2)(b)) is also made out. Again, that means that I "must" consider whether to award costs.

Discretion

27. I next ask myself whether, in principle, it is appropriate to award costs in respect of the unreasonable conduct I have identified.

28. My conclusion in this case is that it would be, subject to an assessment of the claimant's means.

29. The claimant's unreasonable conduct and pursuit of an unmeritorious claim is not an isolated matter, it has infected the whole course of this case, at least from the second preliminary hearing. The respondent has borne not only the usual costs associated with defending a claim, but the additional costs of having to chase the claimant and make applications to the Tribunal due to his default. The claimant has shown no insight into his actions, repeatedly arguing today that the respondent should have chosen to pay him off rather than spending larger sums on legal representation. Whilst the Employment Tribunals encourage settlement, there can be absolutely no criticism of an employer who chooses to pursue a defence and proves entirely justified in doing so.

Amount of Award

30. Having been invited to produce further documents during the adjournment, Mr Parhiar produced two documents. The first was a witness statement (which had not been requested, but was admitted with the respondent's agreement) entitled 'Financial Circumstances Statement'. This set out that Mr Parhiar's only source of income is £340 job seeker's allowance per month. It then set out his expenses including a mortgage payment, utilities, council tax, groceries, motoring costs, insurance and child maintenance.

According to the statement, Mr Parhiar's outgoings amounted to approximately £2,000 per month, and therefore exceeded his income by more than £1,500 per month. He also referred to having outstanding credit card debt of around £600.

31. The second document produced by Mr Parhiar was a bank statement for the month of February. It was very difficult to align the story told by the witness statement with that which appeared to be told by the bank statement:

    31.1 The bank statement showed an opening balance of £4,790, which was surprising given the huge gap between his income and out-goings that Mr Parhiar had portrayed.
    31.2 On 2 February there was a £1,000 transfer to another account, also in Mr Parhiar's name. Mr Parhiar said that he used the second account for groceries etc. No statement was produced from that second account.
    31.3 £520 was paid in on 10 February as a Post Office deposit. Mr Parhiar said this was a loan from his brother.
    31.4 £1,368.06 was paid in on 26 February from Anchor Hanover Group. When questioned, Mr Parhiar said that this was income from temporary work. His witness statement had made no mention of temporary work. He said this was because it had now finished.
    31.5 There was no evidence of money from benefits moving into the account, nor of money for a mortgage payment, child maintenance nor many of the other outgoings claimed by Mr Parhiar moving out of it.
    31.6 The balance of the account at the end of the month was £4,750.14 – almost identical to the opening balance.

32. I recognise that Mr Parhiar may not have been able to put his hands on all of his financial documentation within the timescale of a 25-minute adjournment. However, I nonetheless find that he has been disingenuous in the way he has chosen to present evidence about his financial means to the Tribunal. The witness statement he provided was not a full and frank account of his means, as it did not account for the significant sums accrued in his Lloyds Bank Account. I do not consider that I can place any weight on Mr Parhiar's evidence about his income and outgoings at all, given the discrepancies between the witness statement and the very limited documentary evidence he has produced.

33. Does that then mean that the respondent should be entitled to receive the full £12,928.44 claimed in the schedule? In my judgment, the answer to that question is 'no' for reasons I will outline.

34. Firstly, a significant proportion of the costs claimed in the schedule relate directly to the second preliminary hearing in front of EJ Eeley. That hearing dealt with Mr Parhiar's disability discrimination claim. I have not found, and would have no basis on which to find, that Mr Parhiar's disability discrimination claim was without reasonable prospects of success (of course, I recognise it was unsuccessful as a result of EJ Eeley's determination that he was not disabled, but that does not mean that the case had no reasonable prospects from the outset). Equally, whilst the respondent has alluded to concerns with the claimant's conduct of the case

prior to that hearing it has not presented the detailed evidence of non-compliance that has been presented in relation to the period after that hearing. In those circumstances, I do not consider that it would be just to make a costs order in respect of the costs of the initial phases of the litigation, up to and including that hearing.

35. The only costs claimed in respect of the later phase of the litigation is 28.78 hours of solicitor time preparing for the final hearing. This amounts to £5,468.20, or £6,561.84 inclusive of VAT. I understand the reason why no costs are claimed for representation or attendance at the final hearing is because the respondent is part of the Peninsula Group, and the representation was brought back in-house and undertaken by Peninsula staff.

36. I would be prepared to award the full amount of £6,561.84, subject to giving consideration to the claimant's means, on the basis that the amount claimed is inevitably significantly less than the 'true' cost to the respondent of mounting a full defence of the claim at a final hearing, notwithstanding that that task was ultimately brought back in house.

37. I am aware, however, that £6,561.84 is a lot of money for almost anyone. Even if Mr Parhiar has not been honest with me as to the extent of his impecuniosity, I consider it unlikely that it is a sum that he could come up with without significant hardship, given his employment history and the wage he was earning with the respondent. On that basis, I have determined that the appropriate amount to award is £3,500.00. I recognise that that is still a very significant amount for most workers today, however, it is also within the level of the funds that Mr Parhiar appears to have available to him on the basis of the credit balance of the bank account he has disclosed. Further, it is around six weeks' net earnings at his earnings rate whilst he was working with the respondent, and it is to be hoped that he can obtain further employment at a similar level, enabling him to meet this obligation.

Approved by: Employment Judge Dunlop

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Date: 23 March 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON

24 April 2026

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FOR EMPLOYMENT TRIBUNALS

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