EMPLOYMENT TRIBUNALS

Claimant: Mr S Sharma

Respondents:

1. Ensbury Gaff Ltd

2. Thomas Charles Perry

3. Reem Rianna Cleo Mohsen

JUDGMENT ON COSTS

1. The claimant has been ordered to pay the costs of the respondents as follows:

    a. The costs thrown away as a result of the adjournment of the hearing on 14 January 2026,

    b. The costs of defending the claim of disability discrimination,

    c. The costs thrown away as a result of the adjournment of the hearing on 8 October 2026.

2. The amount of costs is assessed in the amount of £5010.

REASONS

1. By a judgment dated 14 January 2026, I ordered that the claimant pay the costs of the respondent as follows:

    a. the costs thrown away as a result of the adjournment of the hearing on 14 January 2026,

    b. the costs of defending the claim of disability discrimination,

    c. the costs thrown away as a result of the adjournment of the hearing on 8 October 2026.

2. I directed that the assessment would be adjourned to be decided without a hearing and that the claimant must serve any submissions in respect of the amount of costs, including any evidence upon which he relied, by 11 February 2026

3. In the body of the reasons which were sent to the parties, I stated:

    In exercising my discretion within the second stage, Mr Janjua made no representations either as to the exercise of my discretion generally or the claimant's means. Even if I were to assume that the claimant is impecunious, whilst that is a matter I would take into account at this stage, it would not persuade me that I should not make an order for costs in principle. The claimant has been given plenty of opportunities to put his house in order and I consider that it is appropriate to exercise my discretion to order him to pay the costs in this respect. The question of the claimant's means can be considered again at the stage when I decide how much to award by way of costs.

4. The respondent has served a costs schedule and, in accordance with the tribunal's varied directions, the claimant made representations on 25 March 2026.

5. In his submissions, the claimant, whilst accepting that the tribunal has found that the threshold for awarding costs has been met, submits that

    a. an order for the payment of costs is an exceptional event,

    b. it is an error of law to move automatically from finding the threshold to have been passed to making an order that costs should be paid,

    c. the quantum of costs should be causally linked to the unreasonable conduct and proportionate thereto.

6. I accept those submissions as being accurate. It is, however, the case that in my judgment on costs I decided not only that the threshold had been passed but also that in the exercise of my discretion, it was appropriate to make an award for the payment of costs. Nevertheless, I accept that I should be guided by those principles even when assessing the amount of costs which should be paid.

7. In respect of the question of the claimants means, the submissions from the claimant state:

   > The Claimant therefore invites the Tribunal either to make no monetary order in the light of his means, or to reduce any award to a modest, affordable level that reflects his real, as opposed to theoretical, ability to pay.

8. That submission is made in the light of the claimant's earlier submission that a loan of £16,325.30 90 from the respondent to the claimant will only be paid "as and when the company has available funds" and there was no evidence that repayment is imminent. The submission goes on to state that "the claimant's overall financial position… has not yet been fully explored."

9. However, curiously in the light of the orders which had been made and the reasons given in respect of the judgment on costs, the claimant has disclosed no evidence of his overall position, he has disclosed no bank statements to suggest that he is impecunious and given no details of any income and expenditure. It seems to me that must have been a deliberate choice on the part of the claimant since his submissions have a section headed "Ability to pay and the Directors loan". Nowhere does the claimant suggest that he is unable to pay the costs sought by the respondent. In those circumstances I am not willing to assess costs on the basis that the claimant will be unable to pay them.

10. I turn then to the amounts payable.

11. I deal, first, with the respondents' costs of defending the claim of disability discrimination. The claimant's submissions do not properly summarise the reasons for that order. His submissions state that it was not the withdrawal of the claim per se but the claimant's failure to comply with repeated directions to serve a disability impact statement which led to the order. That is true as far as it goes but my judgment was:

    > The unreasonable behaviour in this case is pursuing a claim of disability discrimination where, on the evidence, the claimant showed no intention of serving evidence which showed that he was disabled. The claimant had three specific opportunities to serve a disability impact statement. He took none of them. Instead, he ignored the directions of the tribunal until the day of the hearing when his disability claim might have been struck out and without explanation withdrew the claim. That behaviour was unreasonable.

12. The claimant suggests that behaviour did not cause the respondent to incur any costs. That submission misses the point. The position is that if the claimant was not going to serve evidence of his disability, he should not have made the disability discrimination claim in the first place. In making the claim the claimant behaved unreasonably and caused the respondent to incur costs.

13. In this respect the respondent claims ¼ of the costs of dealing with the ET3 and it asserts that its solicitors spent 13.8 hours on the ET3- 12.6 hours being done at partner rates and 1.2 hours at trainee solicitor rates. In my judgment that is too high. If the claim was to be dealt with by a partner, it is appropriate to allow 12 hours for work on the ET3 and one quarter would amount to 3 hours at £345. A total of £1035

14. In respect of the costs incurred in respect of the hearings on 8 October 2025 and 14 January 2026, I agree with the claimant that his failures on 8 October 2025 were less serious than his failures on 14 January 2026. Nevertheless, the claimant's unreasonable behaviour caused both hearings to be ineffective.

15. In my judgment the appropriate way to assess costs in this respect is to take account of the fact that the preparation for 8 October 2025 hearing is likely have been of significant benefit in relation to 14 January 2026 hearing. I must be alert to avoid double recovery by the respondent although, looking at the respondent's costs schedule, that does not appear to be a significant risk.

16. Looking at matters in the round and taking all of those points set out above into account, in respect of both hearings I award five hours preparation at £345, amounting to £1725.

17. In respect of counsel's fees for the hearing of 8 October 2025, which would have been a one-hour hearing, I allow £750 and in respect of the much more significant hearing on 14 January 2026, I allow the sum claimant of £1500.

18. The total costs payable are, therefore, £5010 (the respondent being VAT registered). That is the amount I order the claimant to pay.

Employment Judge Dawson
Date: 15 April 2026

JUDGMENT SENT TO THE PARTIES ON
2 May 2026

Jade Lobb
FOR THE TRIBUNAL OFFICE