



EMPLOYMENT TRIBUNALS

Claimant: Curtis Fisher
Respondent: WH Smith Travel Limited

Heard at: London South Employment Tribunal (in chambers)

Before: Employment Judge Abbott

JUDGMENT ON COSTS

The Respondent's application for a costs order under Rule 74 of the Employment Tribunal Procedure Rules 2024 succeeds. The Claimant is ordered to pay the Respondent the sum of **£2,225** in respect of costs.

REASONS

1. By my Judgment dated 19 March 2026 the claim was dismissed pursuant to Rule 47, the claimant having failed to attend the final hearing.
2. The Respondent has applied for a costs order on the basis that the Claimant acted unreasonably in the pursuit of the proceedings and/or the complaints had no reasonable prospects of success. It relies in particular upon the claimant's total failure to comply with any orders of the Tribunal prior to (and since) the final hearing, and his failure without explanation to attend the final hearing. The fees and disbursements claimed amount to £2,225 exclusive of VAT.
3. The Claimant was provided the opportunity to respond to the application by the Tribunal's letter of 7 May 2026, sent on my instructions. He has not done so.
4. The Respondent has requested that the application be determined on paper. I am satisfied it is appropriate in the interests of justice and the furtherance of the overriding objective to do so.

The law

5. Rule 74(2) provides (insofar as relevant):

“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, [...]

6. In other words, there is a three-stage process. First, I must ask whether the Claimant’s conduct falls within rule 74(2); if so, I must go on to determine whether it is appropriate to exercise my discretion in favour of awarding costs against the Claimant; and if so, I must quantify the order (Rule 76).

7. Rule 82 provides that, in deciding both whether to make a costs order, and if so, in what amount, the Tribunal may have regard to ability to pay.

8. Costs orders in the Employment Tribunal are the exception rather than the rule: *Yerrakalva v Barnsley Metropolitan Borough Council and anor* [2012] ICR 420, CA at [7].

9. Matters of causation may be relevant, per *Yerrakalva* at [41]:

“The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it and what effects it had. [...]

10. The status of the Claimant as a litigant in person is a matter that the Tribunal must take into account, but is not determinative: *AQ Ltd v Holden* [2012] IRLR 648, EAT; *Vaughan v London Borough of Lewisham* [2013] IRLR 713, EAT.

Discussion

11. I must first consider whether Rule 74(2) is engaged. I am satisfied that it is, on the basis of the Claimant’s unreasonable conduct. It is not reasonable to present a claim and then make no attempt to engage with the Tribunal process at all. The Claimant did not comply with any of the directions set out in the Notice of Claim / Notice of Hearing dated 24 October 2025, nor did he respond to the Respondent’s letter of 23 December 2025 pointing out his default, nor to the Tribunal’s strike out warning letter of 11 March 2026. He did not attend the final hearing, nor provide any explanation (in advance or since) for not doing so. He did not respond to this application nor to the Tribunal’s letter of 7 May 2026 inviting him to do so. The threshold of unreasonable behaviour is clearly met. It is not necessary to consider the underlying merits of his claims.

12. I move on then to consider whether it is appropriate to exercise my discretion to make a costs order. I consider that it is. This is a case where the Claimant has entirely failed to engage with the Tribunal process, without any explanation whatsoever. By setting the ball rolling by presenting his claim form, the Claimant has put the Respondent to substantial costs in defending a claim that

the Claimant has made no effort at all to pursue. In my judgement, this is exactly the kind of situation in which the making of a costs order is appropriate. The Claimant has put forward no evidence in relation to his ability to pay that would affect that conclusion.

13. Moving on to quantification, I am satisfied that the sums incurred by the Respondent are reasonable and proportionate. The hourly rate charged by Mr Manson is below the guideline hourly rate for a solicitor of his experience and the number of hours spent falls well within the bounds of reasonableness. I see no reasoned basis upon which to reduce the amount claimed. I will therefore make a costs order in the sum of £2,225.
14. Although this is not a matter for the Tribunal but for enforcement, if the Claimant does not consider that it is possible to pay the costs award as a lump sum, he would be well-advised to seek to agree a payment plan with the Respondent as soon as possible.

Approved by:

Employment Judge Abbott

Date: 9 June 2026

Public access to employment tribunal decisions

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.