



EMPLOYMENT TRIBUNALS

Claimant: Mr Augustus Thompson

Respondent: Quiver Delivery Limited

Heard at: London South Employment Tribunal (in chambers)

Before: Employment Judge Abbott

JUDGMENT ON COSTS

The Respondent's application for a preparation order under Rule 74 of the Employment Tribunal Procedure Rules 2024 succeeds. The Claimant is ordered to pay the Respondent the sum of **£500**.

REASONS

1. Following my Judgment of 24 April 2026 striking out the claim as having no reasonable prospect of success, the respondent has applied for its costs of the claim. Technically, as the respondent did not have legal representation, the application is for a preparation time order (Rule 73(2)). The basis of the application is set out in Mr Barrie's email of 24 April 2026 and the sum claimed is set out in the Schedule of Costs attached to that email – a total of £1,200 in respect of 16 hours of work.
2. The Claimant resists the application for reasons set out in comments provided on 24 April 2026 and 4 May 2026.
3. I invited the parties to make submissions as to whether a hearing was required. The claimant indicated he was content for a determination to be made on the papers. The respondent has not taken a position. I am satisfied it is fair and just to determine the application without a hearing.

The law

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

"The Tribunal must consider making a costs order or a preparation time order where it considers that—

[...]

(b) any claim, response or reply had no reasonable prospect of success, [...]"

5. In other words, there is a three-stage process. First, I must ask whether rule 74(2)(b) is engaged; 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).
6. 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.
7. 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].
8. The Employment Appeal Tribunal discussed the approach to applications under the predecessor of Rule 74(2) (then Rule 76(1)) in *Radia v Jefferies International Ltd* [2020] IRLR 431. HHJ Auerbach noted at [62-63] that:

"The Tribunal may consider, in a given case, under (a), that a complainant acted unreasonably, in bringing, or continuing the proceedings, because they had no reasonable prospect of success, and that was something which they knew; but it may also conclude that the case crosses the threshold under (b) simply because the claims, in fact, in the Tribunal's view, had no reasonable prospect of success, even though the complainant did not realise it at the time. The test is an objective one, and therefore turns not on whether they thought they had a good case, but whether they actually did. ... However, in such a case, what the party actually thought or knew, or could reasonably be expected to have appreciated, about the prospects of success, may, and usually will, be highly relevant at the second stage, of exercise of the discretion."

9. The Judge provided guidance at [64] as follows:

"This means that, in practice, where costs are sought both through the Rule 76(1)(a) and the Rule 76(1)(b) route, and the conduct said to be unreasonable under (a) is the bringing, or continuation, of claims which had no reasonable prospect of success, the key issues for overall consideration by the Tribunal will, in either case, likely be the same (though there may be other considerations, of course, in particular at the second stage). Did the complaints, in fact, have no reasonable prospect of success? If so, did the complainant in fact know or appreciate that? If not, ought they, reasonably, to have known or appreciated that?"

10. 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. [...]"

11. 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

12. The first step is to decide if rule 74(2)(b) is engaged. It plainly is: the claim was struck out because I found it to have no reasonable prospects of success.
13. The next question is whether I should exercise my discretion to make a preparation time order. A key question here is whether the Claimant knew (or ought to reasonably have known) his claim had no reasonable prospect of success. I find that the Claimant ought reasonably to have known the claim had no reasonable prospect of success. The Claimant was never able to articulate the group disadvantage and there was nothing behind the references he cited in his ET1 claim form to support such a disadvantage – see further my Strike Out Judgment. A reasonable person in the Claimant's position would have appreciated the lack of such evidence to be fatal to his claim. Indeed, it is notable that at the time he rejected the Respondent's request to send in a short video, he did not cite Equality Act concerns but rather GDPR.
14. I also have regard to the quantum claimed (£39,120), which is an extraordinary figure to seek on the basis of a brief interaction with a potential employer via instant messaging.
15. Against that I do have regard to the fact the claimant is a litigant in person, and to the fact that the respondent was in procedural default in that it never successfully presented a response.
16. On balance, I am satisfied that it is appropriate to exercise my discretion to make a preparation time order in this instance.
17. That leads me to the final stage, quantification. There are several points to make here:
 - a. The claimant has provided evidence of ability to pay: in summary, he has very limited disposable income (around £25 per month on the information provided) and no savings.
 - b. The respondent has claimed in respect of the preparation of the rejected ET3 response, but I accept the claimant's submission that it would not be an appropriate exercise of my discretion to award costs in respect of that. The hours otherwise incurred seem to me to be reasonable and proportionate in all the circumstances.
 - c. The claimed hourly rate of £80 exceeds the permissible rate of £46 (from 6 April 2026) provided for under Rule 77(2).
18. Taking account of the above, I consider a fair and just sum to order to be **£500**. That involves a small reduction from 12 hours at £46 to take account of the claimant's financial means, but the final sum reflects the Tribunal's view that unsubstantiated claims of this sort are to be deprecated.
19. 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.

Case Nos: 6021161/2025

Approved by:

Employment Judge Abbott

Date: 9 June 2026

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