



EMPLOYMENT TRIBUNALS

Claimant: Adam Hayward

Respondent: Leeds Trinity University

Heard: in public by CVP

On: 13 March 2026

Before: Employment Judge Ayre

Representation:

Claimant: in person

Respondent: Rebecca Denvers, solicitor

JUDGMENT

The application for costs is refused.

REASONS

Background and history to the claim

1. The claimant was employed by the respondent from 6 September 2022 until 17 January 2024. On 18 September 2024 he presented a claim to the Tribunal following a period of early conciliation that started on 15 April 2024 and ended on 24 May 2024.
2. The case was listed for a Preliminary Hearing on 3 July 2025. The claimant attended that hearing from the driver's seat of a vehicle. The Record of that hearing records that the claimant told the Tribunal that "*he had been "out and about" and had not got home in time to sit in a quiet room to participate in the hearing.*". The Employment Judge was not prepared to proceed with the hearing given the claimant's location and the hearing was postponed.

3. A second Preliminary Hearing took place on 23 November 2025. At that hearing the Tribunal found that the claim is out of time and the Tribunal does not have jurisdiction to hear it

The Costs application

4. On 5 September 2025 the respondent made an application for costs in respect of the first Preliminary Hearing. The costs claimed by the respondent were £2,502.50 plus VAT. The costs application was listed for a hearing today.
5. 35 minutes before this hearing was due to start the respondent sent an updated costs schedule to the Tribunal. The costs schedule contained costs of £2,754.50 exclusive of VAT, broken down as follows:
 - a. £577.50 attending Preliminary Hearing on 3 July 2025 and admin following the adjournment and re-listing;
 - b. £464 preparing and filing costs application;
 - c. £907.50 preparation for re-listed hearing;
 - d. £175.50 preparation for costs hearing; and
 - e. £630 attending costs hearing

Today's hearing

6. I heard evidence from the claimant and submissions from both parties.
7. During the hearing Ms Denvers raised the fact that, some time ago, she used to work in the same firm as the Employment Judge. I explained to the parties that it is not uncommon for a Judge to have previously worked with a representative appearing before them. I left the firm at which Ms Denvers used to work in September 2021 and have had no contact with Ms Denvers since then. Ms Denvers now works for a different firm. Although we worked for the same firm some years ago we were in different offices. It is my view that there is no bias or perception of bias as a result of these facts.

Findings of fact

8. Since leaving the respondent's employment the claimant has worked but his work is sporadic and interspersed with periods when he has not been working. He has not found permanent employment. He is currently working on a contract which is due to last until April. He does not know when his next job will be after April.
9. The claimant is currently earning approximately £1,200 a month and has the following outgoings each month:

Rent: £1,285; Gas and electricity £150; council Tax £150; Fuel £200; Car insurance £50; Car tax £30; and Food £200.

10. The claimant was unable to access his bank account during the hearing but believes he has about £1,000 in the account. He owns his car which he values at £1,200. He is not in receipt of any benefits. He lives alone and there is no other income coming into the household. He has no savings.
11. The claimant has recently been through a divorce. He obtained approximately £20,000 from the sale of his house and used the money to pay six months' rent up front and to buy furniture. He has now spent all that money.
12. In support of the application for a costs award Ms Denvers submitted that:
 - a. The application is made under Rule 74(2)(a) and (3) of the Employment Tribunal Procedure Rules 2024.
 - b. The claimant's conduct in relation to the first Preliminary Hearing was unreasonable.
 - c. The respondent has been put to additional costs as a result of the claimant's schedule.
 - d. The claimant has money in his bank account and a car. He is in work and earning a regular income and has some ability to make a payment of costs.
13. The claimant opposed the application for costs. He submitted that:
 - a. Although he is employed for the next three weeks, he may then be out of work for weeks. The type of work he is doing is irregular and not constant.
 - b. He cannot sell his car because he needs it for work.
 - c. He needs to find another 6 months' rent for his landlord and cannot afford to pay £2,500. He is just scraping along.
 - d. He has done a number of other hearings in court cases about his divorce and children. All of those court cases were done from his car and no other Judge has indicated that the hearing could not go ahead because he was in his car.
 - e. He did not receive any correspondence in advance of the hearing in July to say that he needed to beat home, and he thought it would be possible based upon his previous experience for him to attend the hearing from his car.
 - f. The hearing could have gone ahead. He was in his car in a quiet place.

The Law

14. The statutory provisions governing applications for costs are set out in Rules 72 to 76 and Rule 82 of the Employment Tribunal Procedure Rules 2024 ("**the Rules**"). The relevant rules for the purpose of this application are:
 - a. Rule 75 (Procedure):

“(1) A party may apply for a costs order... at any stage up to 28 days after the date on which the judgment finally determining the proceedings in respect of that party was sent to the parties.

(2) The Tribunal must not make a costs order.... against a party unless that party has had a No such order may be made unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).”

- b. Rule 74 (When a costs order or a preparation time order may or shall be made):

“(1) A Tribunal may make a costs order.... on its own initiative or on the application of a party....

(2) The Tribunal must consider making a costs 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, or*
- (c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.*

(3) The Tribunal may also make a costs order On the application of a party where a party has been in breach of any order, rule or practice direction or where a hearing has been postponed or adjourned....”

- c. Rule 76 (The amount of a costs order):

“(1) A costs order may order the paying party to pay –

(a) the receiving party a specified amount, not exceeding £20,000, in respect of the costs of the receiving party....”

- d. Rule 82 (Ability to pay):

“In deciding whether to make a costs...order, and if so the amount of any such order, the Tribunal may have regard to the paying party’s...ability to pay.”

15. Costs remain the exception rather than the rule in Employment Tribunal proceedings. In deciding whether to make an order for costs, the Tribunal must first consider whether the conduct of the claimant falls within Rule 74. If it does,

the Tribunal must then go on to consider whether to exercise its discretion to make an award of costs and, if so, how much. The mere fact that a party's conduct has been unreasonable or that a party has pursued a claim which did not have reasonable prospects of success does not mean that a costs award will automatically follow.

16. When considering whether to make a costs order under Rule 74(2)(a), the Tribunal must therefore apply a three-stage approach:
- a. Consider whether the grounds for making an order are made out;
 - b. If so decide whether to exercise its discretion as to whether to actually award costs; and
 - c. Decide the amount of the award.

(Daly v Newcastle Upon Tyne Hospitals NHS Foundation Trust EAT 0107/08)

17. In **AQ Ltd v Holden [2010] IRLR 648** the Employment Appeal Tribunal held that Tribunals should not judge litigants in person by the standards of a professional representative:

“A tribunal cannot and should not judge a litigant in person by the standards of a professional representative. Lay people are entitled to represent themselves in tribunals; and, since legal aid is not available and they will not usually recover costs if they are successful, it is inevitable that many lay people will represent themselves. Justice requires that tribunals do not apply professional standards to lay people....lay people are likely to lack the objectivity and knowledge of law and practice brought by a professional adviser. Tribunals must bear this in mind when assessing the threshold tests....” [para 32]

Conclusions

18. I have considerable sympathy for the position that the respondent finds itself in, through no fault of its own. It has been put to additional costs because of the claimant attending the first Preliminary Hearing from his car and the hearing being adjourned. The amount of costs claimed is reasonable in my view.
19. That being said, I am not persuaded that the claimant's conduct, whilst regrettable, reaches the threshold for unreasonable conduct which could trigger a potential costs award. The claimant dialled into the hearing in July and was ready to proceed. He had attended previous court hearings from his car and believed he would be able to attend this one from his car also. Another Judge may have taken a different approach and allowed the hearing to continue.
20. The claimant is a litigant in person who does not have the benefit of legal advice. He has participated fully in these proceedings throughout, attending and participating in every hearing.

21. The claimant has limited means and that is a factor that I can take into account.
22. Costs remain the exception rather than the rule in Employment Tribunal proceedings and the Employment Tribunal is largely a costs free jurisdiction.
23. I find that the claimant's conduct, whilst regrettable, does not amount to unreasonable conduct. Even if I were to find that it amounted to unreasonable conduct, I would not be minded to exercise my discretion to make a costs award for the reasons set out above.
24. The respondent's application for costs fails and is dismissed.

Date: 13 March 2026

JUDGMENT SENT TO THE PARTIES ON

13 March 2026

FOR THE TRIBUNAL OFFICE