



EMPLOYMENT TRIBUNALS

Claimant: Abigail Fox
Respondent: Oni Agency Limited
Decided at: London South
On: 13th July 2026
By: Employment Judge Sudra

JUDGMENT on COSTS

The Respondent's application for a Costs Order under Rule 76 is not well founded and **REFUSED**.

REASONS

1. This is the determination of the Respondent's application for costs made on 23rd June 2026.
2. The application was made under r.76(1)(a) of the Employment Tribunal Procedure Rules 2024 (although in its application the Respondent referred to r.73(1)(a)). R.74 provides that if a party against whom an application for costs is made is considered by the Tribunal to have either, in bringing the proceedings or in conducting them, acted vexatiously, abusively, disruptively or otherwise

unreasonably, or the claim or response had no reasonable prospect of success, then the Tribunal may make a costs order against that party.

3. The Respondent pursues its application on grounds of the Claimant's alleged unreasonable and vexatious conduct although the wording actually used by the Respondent is:

'The Respondent seeks it's (sic) costs against the Claimant on the basis that the claim was bound to fail as is evidenced by her withdrawing the same...'

Procedural Chronology

4. The Claimant, after Acas Early Conciliation, presented her ET1 on 7th October 2025. The claim was served on the Respondent on 8th October 2025 and an ET3 and response was due by 5th November 2025.
5. On 19th October 2025 the Claimant withdrew her claim.
6. On 5th November 2025, the Respondent's solicitors (T. W. Drew and Co) applied for an extension of time to submit a response but did not accompany the application with a draft Grounds of Response. Upon receipt of the Respondent's application the Claimant informed it that she had withdrawn her claim on 19th October 2026.
7. The claim was dismissed upon withdrawal on 11th November 2026 and the judgment was sent to the Claimant and Respondent on 17th February 2026. Unfortunately, the judgment was sent to the Respondent directly and not to its solicitors.
8. On 8th January 2026, the Respondent's solicitors applied for 'wasted costs'.
9. The Respondent applied for costs on 23rd June 2026 as it alleged that *'the claim was bound to fail as is evidenced by her withdrawing the same...'* and made an application for an extension of time to apply for costs.

Issues

10. The issues that I have to determine are:

- (a) Whether the threshold for a costs order has been met;
- (b) whether a costs order should be made;
- (c) if so, in what amount; and
- (d) should an extension of time be granted to the Respondent in which to apply for its costs.

Has the Threshold for a Costs Order Been Met?

Unreasonable Conduct

11. There was one aspect to this ground:

- (i) The Respondent contended that the Claimant's claim was bound to fail as that this was evidenced by her withdrawing her claim.

12. I am not satisfied that the Claimant withdrawing her claim, 12-days after presentation, amounts to unreasonable conduct by the Claimant.

13. In all the circumstances, I do not find that the threshold for a costs order has been met. Due to my findings at this stage, I need not address the issues of whether a costs order should be made or if an extension of time should be allowed in which to make an application for costs.

Conclusion

14. The Respondent's application is wholly without merit and refused.

Employment Judge Sudra

Date: 13th JULY 2026

Sent to the parties on:
18 July 2026

For the Tribunal Office:

P Wing