



EMPLOYMENT TRIBUNALS

Claimant: Sofoklis Friligkos

Respondent: The Real Greek Food Company Limited

Before: Employment Judge Young

Non-Legal Members: Mr Peter Hough
Mr Peter Randall

On: 20 July 2026

COSTS JUDGMENT

1. The Employment Tribunal exercises its discretion to order that the Claimant pay the Respondent's costs subject to the conditions 2-4 below:
2. The costs awarded are to be limited to costs after 14 February 2025.
3. Costs are to be awarded only on the basis of costs attributable to Employment Tribunal hearing preparation and attendance for the hearing on 23-27 February 2026.
4. The costs are to be awarded on the standard basis.
5. The costs are to be referred for detailed assessment.

REASONS

The Respondent's application

1. By email dated 8 March 2026, the Respondent made an application for costs on the grounds that the Claimant's conduct in not attending the Employment Tribunal hearing on 23 February 2026, requiring the vacation of the following 4 days of the hearing, was unreasonable conduct. The Respondent also relied in their application on the Claimant's alleged unreasonable conduct in relation to the failure to comply with Employment Tribunal orders before the commencement of the full merits hearing on 23 February 2026 and has conducted his claim unreasonably throughout.
2. The Respondent provided a cost schedule amounting to £149,647.07 with their application and requested that if costs were to be awarded, they be sent for detailed assessment. The Respondent then sent an amended costs schedule by email dated 5 May 2026. That amended costs schedule set out costs amounting to £167,449.07. We note that the amended costs schedule has counsel's fee for attending the Employment Tribunal full merits hearing twice.

3. The Claimant was copied into the Respondent's 8 March 2026 application on 9 March 2026; however, whilst the Claimant responded to the Respondent's costs application on 8 March 2026, his response was not substantive. He stated: *"Good morning I will wait for the tribunal judgment and order and then I will formally respond."* However, the Employment Tribunal judgment was sent to the parties on 18 April 2026. However, the Claimant has not provided a substantive response.
4. The Respondent sent the Employment Tribunal an updated costs schedule on 5 May 2026. However, the Claimant did not respond to that correspondence either.

The Law

5. Rule 74 in the Employment Tribunal Procedure Rules 2024 ("ETPR") deals with when a costs order may or should be made. Rule 74 states:

"74.—(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) 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, 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 or a preparation time order (as appropriate) 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...."

6. Rule 75 ETPR sets out the applicable procedure when dealing with a costs application:

"Procedure

75.—(1) A party may apply for a costs order or a preparation time 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 or a preparation time order against a party unless that party has had a reasonable opportunity to make representations (in writing or at a hearing, as the Tribunal may order).

7. The rules around what amount of costs can be awarded and by whom are contained in rule 76:

“The amount of a costs order

76.—(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;*
- (b) the receiving party the whole or a specified part of the costs of the receiving party, with the amount to be paid being determined—*
 - (i) in England and Wales, by way of detailed assessment carried out either by a county court in accordance with the Civil Procedure Rules 1998(33), or by the Tribunal applying the same principles;*
 - (ii) in Scotland, by way of taxation carried out either by the auditor of court in accordance with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019(34), or by the Tribunal applying the same principles;*
- (c) another party or a witness, as appropriate, a specified amount in respect of necessary and reasonably incurred expenses for the purpose of, or in connection with, an individual’s attendance as a witness at a hearing;*
- (d) an amount agreed between the paying party and the receiving party in respect of the receiving party’s costs.*

(2) Where the costs order includes an amount in respect of fees charged by a lay representative, for the purposes of the calculation of the order, the hourly rate applicable for the fees of the lay representative must not exceed the rate under rule 77(2) (the amount of a preparation time order).

(3) A costs order under sub-paragraphs (b) to (d) of paragraph (1) may exceed £20,000.”

8. When an application for costs is made, the Employment Tribunal should follow through three stages to make the decision. The first stage being has one (or more) of the criteria (for costs to potentially be awarded) as set out in the rules has been met. In this particular case, the Respondent relies upon rule 74(2) (a). If there is no criteria in the rules that is met, there can be no order for costs. But if there is criteria that is met, the Employment Tribunal must identify which rule or rules contain the criterion that has been satisfied (and why). The Employment Tribunal must ask if the rule that is met is one which requires the Tribunal to consider making an award or is it one which says the Tribunal “may” consider making an award. Either way, if the criteria for a costs order are met, that means that the Tribunal has discretion to make an award, but it is not obliged to. Then the Employment Tribunal should identify what the relevant factors are to be taken into consideration in the case, and, taking into account all of the relevant factors (and ignoring anything which is irrelevant), ask itself whether an award should be made.
9. Where the argument that there has been unreasonable conduct is made, then the whole picture of what happened in the case is potentially relevant. The Court of Appeal in McPherson v BNP Paribas (London Branch) 2004 ICR 1398, CA suggests that Employment Tribunals should have regard to the nature, gravity, and effect of a party’s unreasonable conduct. But it is appropriate to avoid a formulaic approach and have regard to the totality of

the relevant conduct. However, it is necessary to identify the specific conduct, and decide what, specifically, was unreasonable about it and analyse what effects it had. Some causal link between the conduct and the costs sought by the other party is required. As Mummery LJ explained in Yerrakalva v Barnsley MBC [2012] ICR 420, CA at paragraph 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. For the purposes of rule 74(2)(a) ETR the word “unreasonable” is to be given its ordinary English meaning and is not to be interpreted as meaning something similar to vexatious (Dyer v Secretary of State for Employment UKEAT/0183/83).
11. The fact that a costs warning was made, even one which is clear, detailed, and well-timed, and which identifies the precise basis on which the application was later made, does not guarantee that an order will be made.
12. Whether a party is legally represented may be a relevant factor. unrepresented litigant may be afforded more latitude than a party who has the benefit of professional legal advice and representation (AQ Ltd v Holden [2012] IRLR 648, EAT).

Analysis & Conclusions

13. We considered that the Claimant’s conduct in not attending the Employment Tribunal was unreasonable conduct, because at 10:15 on the first day of the hearing, having contacted the Claimant who had not attended when the hearing started at 10:00, the Employment Tribunal was told that the Claimant said he was unable to attend today because of the weather and that it was going to rain. He is not sure about the rest of the week because of the weather.
14. The Employment Tribunal communicated to the Claimant that in Watford the weather was fine; however, the Claimant responded that the weather could change and that he was not sure that he would be attending the following day. The Employment Tribunal told the Claimant at 10:45 that we would give the Claimant until 12:30 to attend, and if the Claimant did not attend we would then make a decision. However, at 10:45 the Claimant told the Employment Tribunal that he was not going to attend.
15. The Respondent also relied upon the Claimant’s conduct having been unreasonable throughout the proceedings and flouting Employment Tribunal orders. However, we note that there was a costs award against the Claimant on 14 February 2025, sent to the parties on 3 April 2025, of £8,550 and the reason for that award as set out in EJ Alliot’s judgment dated 3 April 2025, was *“In my judgment, the claimant’s conduct of this litigation has been unreasonable. I have been provided with a costs schedule indicating that the respondent has been put to very considerable expense. It is not possible to separate out precisely what costs have been incurred by the respondent as a direct result of the claimant’s failures. In my judgment, today’s hearing*

has been caused by the claimant's failures."

16. We also note that at the hearing on 6 June 2024 the Respondent told the Employment Tribunal that they reserved their position on costs. The Claimant was therefore warned about the Respondent making a costs application. However, due to the timing of the warning, we consider that the cost warning was in respect of the Claimant's alleged conduct of the proceedings and failure to provide medical evidence at that point. EJ Alliot made a costs order in respect of that conduct on 14 February 2026, and so we consider that the warning carries little weight in respect of the Claimant's unreasonable conduct for non-attendance without good reason. But we do take into account the fact that the Claimant already had a costs order made against him and therefore was cognizant of the process and procedure regarding costs, as well as the fact that the Claimant had already exhibited unreasonable conduct in these proceedings.
17. Notwithstanding, in those circumstances, we consider that all the litigation that took place prior to 14 February 2025 has already been considered by EJ Alliot and costs awarded in respect of the Claimant's conduct of proceedings and flouting of Employment Tribunal orders up until that date.
18. At the hearing on 19 November 2025, the Respondent's strike out application was heard. The Respondent applied for the Claimant's claim to be struck out on the basis that the Claimant had not complied with EJ Alliot's 14 February 2025 orders; however, the Respondent also did not comply, and EJ Alliot stated at paragraph 5 of his strike out judgment sent 10 December 2025, *"As far as the remaining case management orders are concerned, neither party has complied. It is clear that when the respondent made its application for a strike out order the respondent also asked for the case management orders to be stayed pending the determination of that issue. However, the fact remains that no stay was made and, consequently, both parties should have complied with the orders. The respondent told me that it had experienced a lack of cooperation from the claimant who said that he would not communicate by email. Be that as it may, faced with a reluctant or obstructive litigant, the respondent should nevertheless have got on with complying with the case management orders."*
19. There were further case management orders made on 26 November 2025 and sent to the parties on 10 December 2025. The Claimant did provide a witness statement because the Respondent commented at the hearing on 23 February 2026 that they considered that the Claimant's witness statement did not deal with the case. Furthermore, the Claimant wrote in his pre-hearing checklist that the Respondent sent the bundle after the Employment Tribunal orders date. The Claimant provided a schedule of loss by 7 March 2025, when EJ Alliot's case management order dated 25 February 2025 stated that the Claimant's schedule of loss must be provided by 14 March 2025. The Respondent did not mention anything further about any breaches of the Employment Tribunal orders in relation to disclosure. In those circumstances, we find that there does not appear to be any further breach by the Claimant of the Employment Tribunal's orders after 14 February 2025. We find that there is no unreasonable conduct that can form the basis of a further costs award in respect of the Claimant's flouting of Employment Tribunal orders.

20. We did not hear the claim and took into account the fact that the Respondent had made multiple applications to strike out the Claimant's claim and those applications were unsuccessful in striking out the claim as a whole (although we acknowledge 2 allegations were struck out).
21. We exercise our discretion to award costs because of the Claimant's unreasonable conduct by failing to attend the full merits hearing and the poor reason for that non-attendance; we conclude that amounts to unreasonable conduct in the way that part of the proceedings have been conducted. We take into account the fact that the Claimant has provided no opposition to the application and we recognise that the Claimant was not legally represented. For those reasons, we consider that legal costs should only be awarded in respect of the preparation and attendance of the final full merits hearing as those costs are directly linked to the conduct. We considered whether the Claimant bringing the claim was unreasonable.
22. The Claimant has provided no information about his financial situation and the Claimant's schedule of loss only deals with injury to feelings.
23. We have considered whether the costs that remain, taking into account costs after 14 February 2025 and costs only attributable to the unreasonable conduct, i.e. attendance and preparation for the full merits hearing, amount to £20,000. We consider that it is likely to be more than £20,000. We order that the costs be made on a standard basis and should therefore go to detailed assessment.

Approved by:

Employment Judge Young

Dated: 20 July 2026

JUDGMENT & REASONS SENT TO THE PARTIES ON
24 August 2026

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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Recording and Transcription

Case No: 3300529/2023

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>