Case Number: 2302098/2024

EMPLOYMENT TRIBUNALS

Claimant: **Nakisha Shirley**

Respondent: **London Borough of Southwark**

JUDGMENT

The judgment of the Tribunal is that:

1. The Respondent's application for costs is dismissed.

FULL REASONS

JUDGMENT having been given in writing, reasons must also be given in writing. Rule 60 of the Employment Tribunal Procedure Rules requires those reasons to be full reasons. The following written full reasons are therefore provided:

1. Judgment was given orally on 29 April 2026, dismissing the complaints of direct discrimination because of marriage and of failure to make reasonable adjustments for disability. Full written reasons ('Full Reasons') were sent to the parties on 9 July 2026.

2. The Respondent applied for costs on 30 April 2026, copying its application to the Claimant. The Respondent asked for its application to be determined on the papers. The Tribunal made directions, providing the Claimant with a reasonable opportunity to make representations. The Respondent provided evidence of its costs and a copy of the costs warning sent on 16 April 2026. The Claimant made detailed submissions on 31 July 2026, but did not provide evidence of her means.

3. The application is made on the basis that the Claimant pursued proceedings that had no reasonable prospect of success and/or acted unreasonably in the bringing or conduct of the proceedings.

Law

4. The relevant law is therefore Rule 74(2)(a) and (b). The Tribunal must consider making a costs order where it considers that a party has acted 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, or that any claim had no reasonable prospect of success. If I am satisfied that one of the grounds for making a costs order is met, I must then exercise

discretion as to whether or not to make an award. In deciding whether to make a costs order, the Tribunal may have regard to the paying party's ability to pay.

Grounds

5. The claim for direct discrimination on the basis of marriage was legally misconceived even on the Claimant's own case: see paragraph 38 of the Full Reasons. It had no reasonable prospect of success.

6. The claim for failure to make reasonable adjustments in respect of wrist support was legally misconceived even on the Claimant's own case: see paragraph 40 of the Full Reasons. It had no reasonable prospect of success.

7. The claim for failure to make reasonable adjustments in respect of the chair and footrest had little (rather than no) reasonable prospects of success. However its determination depended on an assessment of the evidence.

8. The Respondent sent a costs warning on 16 April 2026, shortly before the final hearing, stating that "the claims advanced do not have a reasonable prospect of success". Costs incurred after the letter was sent are in the region of £5,000 (including counsel's refreshers, but not their brief fee). However the costs warning did not set out the basis on which the Respondent said that the claims had no reasonable prospect of success, and the Claimant is a litigant in person. It was reasonable for her not to simply take the Respondent's word of it. So she did not act unreasonably in pursing the proceedings even after the costs warning.

9. In summary, the Claimant did not act unreasonably in pursing her claims even after the costs warning, but parts of her claim had no reasonable prospect of success.

10. *Discretion*

11. I am not able to take into account the Claimant's means, since she did not take the opportunity to provide evidence of her means. However costs are the exception rather than the rule in the Employment Tribunal. The costs warning did not set out the basis on which the Respondent said that the claims had no reasonable prospect of success. The Claimant is a litigant in person and was not required to simply take the Respondent's word for it that her claims had no reasonable prospect of success. In all the circumstances, it would not be appropriate to make a costs order.

12. The application for costs is therefore dismissed.

Approved by:

Employment Judge Jack

19th September 2026

Judgment sent to parties on:
30th September 2026

For the Tribunal Office

Notes

All judgments (apart from judgments under Rule 51) and any written full reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:
www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/