



EMPLOYMENT TRIBUNALS

Claimant: Mr W Mills

Respondent: Tower Transit Ltd

Employment Judge Henderson

JUDGMENT on COSTS

The respondent's application for costs is refused.

REASONS

The application

1. Following a Judgment of EJ Henderson (sent to the parties on 6 July 2018-hearing on 22 June 2018) in which the claimant's claim for unlawful deduction of wages was dismissed, the respondent made an application for costs (dated 1 August 2018) under rule 76 (1) (a) of the Employment Tribunal Procedure Rules 2013 in the sum of £2,700, on the basis that the claimant acted unreasonably in pursuing his claim.
2. The Tribunal wrote to the claimant on 17 August 2018 (with a copy to the respondent) ordering him to respond no later than 29 August 2018 to the application for costs and also to include any information relating to his ability to pay any such order which may be made. The Tribunal stated that if no response was received from the claimant within the specified time, the Tribunal would consider the respondent's application in any event.
3. As at 13 September 2018 the Tribunal had received no response from the claimant whatsoever: he had not provided the information sought; nor has he explained why he is unable to do so; nor has he sought any extension of time in which to provide such information. The Tribunal shall proceed to consider the respondent's costs application.

Costs Warning Letter

4. The respondent refers to a "without prejudice save as to costs" letter sent

to the claimant on 7 June 2018. The respondent offered the sum of £454.35 in full and final settlement of the claim which was open for acceptance until 12 June 2018. The claimant was notified that if his claim did not succeed or if he was awarded a lesser sum the respondent would seek costs against him which could total £2750 (for solicitors and counsel's fees in preparing for and attending the hearing).

5. The allegation of unreasonable conduct appears to be the refusal to accept the offer of 7 June 2018. I refer to the case of **AQ Ltd v Holden [2012] IRLR 648 EAT**, which said that the Tribunal should not judge a litigant in person by the standards of a professional representative. I do not find that the claimant (given his status as a litigant in person) has acted unreasonably by refusing the offer (**Lake v Arco Grating (UK) Ltd EAT 0511/04**).
6. The Tribunal's Reasons found that much of the evidence in the case was confused. The respondent comments in the costs application that the confusion was only that of the claimant. That was not the view of the Tribunal Judgment. Even if the respondent is correct in its view, such confusion of itself (especially for a litigant in person) would not constitute unreasonable conduct by the claimant.
7. Even if I were to be incorrect on this point; the second stage of the costs exercise requires the exercise of the Tribunal's discretion and this would not be exercised in favour of a costs order. The application is refused.

Employment Judge
13 September 2018
Date _____

JUDGMENT SENT TO THE PARTIES ON

14 September 2018

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FOR THE TRIBUNAL OFFICE