



EMPLOYMENT TRIBUNALS

Claimant Adam Flisiak
Respondent Accomplish Group Limited

Heard at: Bristol **On:** 19 February 2019

Chairman: Employment Judge M Ford QC

Representation

For the Claimant: In person
For the Respondent: Ms N Roberts, Counsel

JUDGMENT

The judgment of the Tribunal is as follows:

1. The claims are dismissed upon withdrawal by the Claimant.
2. The Respondent's application for costs is refused.

REASONS

1. At a Preliminary Hearing held on 19 February 2019, after the Tribunal had given oral reasons that (i) it was to strike out the Claimant's claim for victimisation contrary to s.27 of the Equality Act, (ii) it was not to strike out the complaints of race discrimination (iii) it was to make an deposit order in the sum of £175 in relation to his complaints of race discrimination on the basis that they had little reasonable prospects of success, the Claimant indicated that he would not pay the deposit and wished to withdraw the claims.
2. After further discussion of his options, the Claimant confirmed that he intended to withdraw the claims because he did not wish to continue with the process in the tribunal. In the circumstances I issued a judgment dismissing the claims.
3. After oral reasons were given on the applications referred to at (1) above, the Respondent made an application for its costs in respect of the Preliminary

Hearing, contending that the Claimant had engaged in unreasonable conduct for the purpose of rule 76(1) of the Tribunal rules. Counsel referred, in particular, to the Claimant only serving his witness statement on 6 February and to an e-mail of 1 February in which it said it “reserved its position’ in respect of the costs of the preliminary hearing. In circumstances in which the Claimant was not legally represented, did not speak English as his first language (he used an interpreter at the hearing), provided his witness statement on 6 February in sufficient time for the hearing, and properly argued his case at the preliminary hearing (where I declined to strike out the complaints of race discrimination), I do not consider the Claimant engaged in unreasonable conduct. In the alternative I did not consider it just to make such an order in those circumstances in the exercise of my discretion.

Employment Judge M Ford QC

19 February 2019

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