



NCN: [2023] UKFTT 00285 (GRC)
Case Reference: EA/2021/0302

**First-tier Tribunal
General Regulatory Chamber
Information Rights**

Considered on the papers in chambers

**Decided on: 12/03/2023
Decision given on: 13/03/2023**

Before

TRIBUNAL JUDGE CL GOODMAN

Between

AMIT MATALIA

Applicant

and

**(1) THE INFORMATION COMMISSIONER
(2) THE UNIVERSITY OF CAMBRIDGE**

Respondents

Ruling on Costs

Decision:

The Applicant's application for costs to be awarded against the Second Respondent is dismissed because it is out of time.

1. In this Decision, I will refer to the Second Respondent as the University, as I did in the Decision issued on 27 July 2022.
2. The Applicant applied on 3 January 2023 for his costs of and incidental to the University's own application for costs in this appeal, pursuant to Rule 10(1)(b) of The Tribunal Procedure (First-Tier Tribunal) (General Regulatory Chamber) Rules 2009 ("the 2009 Rules").

3. The Applicant asked for a decision to be made on the papers and I find that it is fair and in the interests of justice to do so. The University has provided a detailed response to the application.

The relevant law

4. Section 29 of the Tribunals, Courts and Enforcement Act 2007 provides that, subject to Tribunal Procedure Rules:

“(1) The costs of and incidental to all proceedings in the First-Tier Tribunal... shall be in the discretion of the Tribunal in which the proceedings take place”

(2) The relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid.”

5. Rule 10(1) of the 2009 Rules provides that:

“...the Tribunal may make an order in respect of costs... only —

... (b) if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings.”

6. The relevant authorities on the meaning of the word “unreasonable” in this context are set out in my Decision dismissing the University’s application for costs. The onus is on the party making the application.

7. Rule 10 (4) provides that:

“An application for an order under paragraph (1) may be made at any time during the proceedings but may not be made later than 14 days after the date on which the Tribunal sends—

(a) a decision notice recording the decision which finally disposes of all issues in the proceedings;

(b) notice under rule 17(5) that a withdrawal which ends the proceedings has taken effect; or

(c) notice under rule 17(8) that the proceedings have been treated as withdrawn.”

Reasons

8. The history of these proceedings is set out in the Tribunal’s substantive Decision on the appeal, issued on 27 July 2022, and in my decision dismissing the University’s application for costs, issued on 7 December 2022.
9. The Applicant submits that the University acted unreasonably in bringing its application for costs. He submits that the application was without merit and that the University made baseless and insulting claims against him in the course of the proceedings. He seeks his costs of £3,250

for responding to the application and for making his own application for costs, on an indemnity basis.

10. The University submitted in response that the Applicant was out of time to bring an application for costs under Rule 10(4), whether time runs from when the Tribunal issued its substantive Decision on the appeal on 27 July 2022, or from when the Tribunal issued its decision on the University's application for costs on 7 December 2022. In either case, the Applicant's application was made more than 14 days after the relevant decision notice was sent by the Tribunal. The University further submitted that in any event, the application was totally without merit.
11. I have taken the submissions of both parties into account.
12. I find that the Applicant's application is out of time. I do not find it necessary to make a decision as to whether time begins to run when the Tribunal issued its substantive Decision on 27 July 2022, or from when the Tribunal issued its decision on the Second Respondent's application for costs on 7 December 2022. In either case, the application is more than 14 days after that decision was sent by the Tribunal.
13. I decline to exercise my discretion to extend time to admit the application under Rule 5(3)(a), again in either case. In exercising any such discretion, I am required to apply the overriding objective in Rule 2 to deal with cases fairly and justly, which includes avoiding delay so far as compatible with proper consideration of the issues. I have taken into account that the Applicant is unrepresented. However, he is a seasoned litigant in this Tribunal and is familiar with the 2009 Rules and the importance of time limits in the administration of justice.
14. I would in any event dismiss the application on the merits. I am not persuaded that the University acted unreasonably in making an application for costs, taking into account in particular the observations made by the Tribunal and by Upper Tribunal Judge Wikeley about the Applicant's conduct in bringing his appeal (see paragraph 19 of my Decision dismissing the application). The fact that the University's application for costs was unsuccessful does not mean that it was without merit or unreasonable.

District Tribunal Judge CL Goodman

12 March 2023