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EMPLOYMENT TRIBUNALS

Claimant: **Mr M Akal**

Respondent: **North East London NHS Foundation Trust**

Heard at: **East London Hearing Centre**

On: **9 October 2017**

Before: **Employment Judge Russell (sitting alone)**

Representation
Claimant: **Neither present nor represented**
Respondent: **Mr A Hazelwood (Solicitor)**

JUDGMENT

The judgment of the Employment Tribunal is:

(1) The Claimant's claims be struck out pursuant to Rule 37(1) as his conduct of litigation has been scandalous, unreasonable or vexatious and a fair trial is no longer possible.

(2) The Claimant do pay the Respondent's costs assessed at £11,567.64 because of his unreasonable conduct of proceedings.

REASONS

1 The Claimant was employed by the Respondent as a clinical psychologist from January 2010 until his dismissal on 16 December 2016. In June 2015 the Claimant was given a final written warning for an inappropriate Facebook post (which he denies he made), reduced to a first written warning in October 2015 on appeal. The Claimant was and remains unhappy with the outcome. The Claimant remained absent on sick leave from June 2015 until his dismissal on 16 December 2016.

2 In my Order and Reasons sent to the parties on 1 August 2017, I set out the complex procedural background to the case to that point. On 19 December 2015, the Claimant presented an ET1 form including claims of direct discrimination, harassment

and failure to make reasonable adjustments relying upon the protected characteristic of disability and for whistle-blowing. A 30-page document attached to the ET1 was sent back to the Claimant on 30 December 2015 on the instruction of an Employment Judge. It was not sent to the Respondent with the claim form. The Respondent served a Response to the ET1 form on 27 January 2016. The Claimant maintains that the full details of his complaint are set out in the attachment and that the Respondent has not replied to the same thereby breaching rule 16(1) of the Employment Tribunal Rules of Procedure 2013.

3 Although the Claimant has not attended the hearing today, despite it being rearranged to accommodate his work commitments, I took into account the contents of his email to the Tribunal sent on 15 September 2017 and to the Parliamentary and Health Services Ombudsman ("PHSO") sent on 29 September 2017. The Claimant repeatedly refers to an error in my chronology which it may help to clarify. The Claimant is correct insofar as a copy of his 30-page attachment was sent to the Respondent prior to the first Preliminary Hearing with Employment Judge Jones on 29 February 2016. It was discussed at that hearing. My chronology refers to the conclusion of Judge Jones in her Summary that it was not sent with the claim form and, in particular, at paragraph 3 which reads:

> "**It is now clear to the Claimant that the Respondent had not been served with that document with the ET1 form and therefore they have not failed to properly respond to his claim. They have complied with the rules and have submitted their response in time and dealing with all aspects of the claim that was served on them.**"

4 The Claimant has not accepted Judge Jones' conclusion that the Respondent was not in breach of the Rules. He has, however, not appealed that conclusion to the EAT but has instead continued to raise it in correspondence (and at those hearings which he has attended) even up to the date of today's hearing, maintaining his allegation that the Respondent is in breach of Rule 16(1).

5 As set out in my Reasons on 1 August 2017, the Claimant has failed to comply with Orders to provide further information and/or agree a list of issues. At a hearing on 23 January 2017, Judge Jones confirmed that all claims other than reasonable adjustments were dismissed for failure to comply with an Unless Order and/or withdrawn. The Jones Order has not been appealed.

6 On 1 August 2017, I refused the Respondent's application for a strike out of the reasonable adjustments claim and/or for an Unless Order. I directed that there be a hearing to consider the application to strike out the reasonable adjustments claim because of the Claimant's conduct. In my Reasons, I set out details of the Claimant's conduct both in relation to his compliance with case management Orders and in the content of his communications with the Respondent and the Tribunal, including repeat references in his emails to the judges who have dealt with the matter as being criminals, guilty of bribery and corruption. The conduct summarised in those reasons is relevant and forms part of the Respondent's application today, in short that he has failed to comply with Orders to clarify his remaining claim and/or agree a list of issues.

7 I had regard today to the content of some of the emails sent by the Claimant since the expiry of the stay on 18 June 2017. There are repeated allegations of fraud,

bribery and corruption principally against Judges Jones and Ferris but also against the Respondent's solicitor and other Judges of the County Court. The Claimant issued proceedings in the County Court against Judge Ferris, but these were struck out. He also issues proceedings in the Bristol County Court accusing Mr Hazelwood of harassment because he has attempted to correspond with the Claimant in connection with the proceedings. This claim was also struck out.

8 The language used in the Claimant's emails may properly be described as scandalous on occasions, for example in his email sent on 28 June 2017 the Claimant refers to the Respondent's solicitor and to the Judge in the Bristol County Court who struck out his harassment claim there as "**bulldog mess**" and states:

> "**You all think you can behave like wild children and make up the law and behave like joke excuses for white collar criminals. If you are going to try to break the law all of you at least please don't do it in such a blatant manner you recidivist morons. It only makes your narcissistic personality disorders that much more obvious.**
>
> **You are all heading for prison you narcissistic and antisocial personality disorders. I refer you all to your nearest psychiatrist, religious leader and then police station so you can all make a full statement about your behaviour before you go to prison.**
>
> **Otherwise You will all be beheaded in due course by The Royal Family. They have all of your numbers and we know exactly what you look like you unprofessional and unethical gang of bulldog messes the lot of you.**"

9 Between 11 and 12 July 2017, the Claimant sent approximately 1,000 emails in a 12-hour period to the Respondent's solicitors, the Tribunal, various County Courts, the Supreme Court and other regulatory bodies. Some included reference to beheading Judges; others purported to register claims with the Supreme Court with damages increasing in increments of millions of pounds, alleging corrupt and illegal behaviour by named Judges (including myself, Judges Jones and Ferris amongst others).

10 In light of the concerning content of the emails, in my Reasons on 1 August 2017, the Claimant was advised of the power to strike out in rule 37(1)(b) and of the legal test to be applied. In my conclusions at paragraph 23 to 24, I advised the Claimant to reflect upon his conduct and the content of his email messages noting that a Judge would consider the extent to which he adheres to his former opinions and how likely it is that such emails would continue to be sent. I made clear that the Judge hearing the strike out application would want to consider whether a fair trial was still possible, whether some sanction short of strike out was appropriate and the likely future progress of the case.

Conduct since 1 August 2017 - emails

11 Today I reviewed the correspondence with the Tribunal since 1 August 2017. The Claimant has not apologised for the content of his earlier emails nor has he stopped making allegations of fraudulent and criminal behaviour against both the Respondent and Judges. On 1 August 2017, the Claimant's email reply to the Order and Reasons was as follows:

> **"Good Day ET**
>
> 1. **Your corruption and crimes are all noted in my various emails.**
>
> 2. **This fraudulent chronology you wrote is a further corrupt crime. Refer to your own case file for evidence!**
>
> 3. **The respondent was provided with a copy of my full ET1 prior to the first prelim hearing. I have already evidenced this!**
>
> 4. **The whistleblowing has still not carried out by you and you have still not provided a response to my grounds or complaint in over 19 months!**
>
> 5. **Jones lied in her judgment and I hold the full third preliminary hearing transcript evidence to prove this! I will only provide it when I am satisfied that it will be received with good intentions! You do not even have a transcript of that meeting because you don't record you preliminary hearings!!!**
>
> 6. **You are a joke.**
>
> **Supreme Court please be advised that I hereby add an additional claim against East London ET for further fraud summarily assessed to the value of £150,000,000"**

12 Although with decreased frequency, the Claimant continued to correspond with the Tribunal throughout August in terms alleging fraud against the Respondent and East London Tribunal (although without reference to named Judges). On 31 August 2017, the Claimant emailed this Tribunal and various regulatory bodies to inform the Respondent and the Tribunal that they were going to be under investigation by the PHSO for illegal corruption and fraud, repeating his assertion with regard to the original 30-page attachment to the ET1.

13 From 1 September 2017, the Claimant's emails increased again in frequency and in the vehemence of the content. On 1 September 2017, the Claimant sent at least eight emails over the course of the day to the Respondent's solicitor, copied to the Tribunal and regulatory bodies. In a lengthy email to the Respondent's solicitor at 08:51 the Claimant took issue with what he described as the Respondent's arrogant and patronising attitude and responding to the Respondent's objection to his application for a postponement of the Preliminary Hearing, the Claimant asserted amongst other things:

> **"7. I can assure you that given all of the corruption in this tribunal case to date and the severe degree to which the Claimant has been prejudiced, bullied and harassed by the Respondent and East London ET for 20 months – including Judge Ferris committing libel, Judge Jones's behaviour in the third preliminary hearing and in her judgment afterwards (I will of course be furnishing you and the court with the only third preliminary hearing transcript for ease of reference proving that Judge Jones lied in her summary and judgment afterwards in due course) as well as Judge Russel avoiding all of the Claimant's pertinent questions for months yet proceeding to later draft, sign and submit some bizarre form of equally corrupt and fraudulent chronology – neither the Respondent nor East London ET should expect this case to be concluded and wrapped up nicely any time soon. As you are now aware you are also being investigated by the Parliamentary and Health Services Ombudsman along with East London ET. Therefore the delay at this stage will not impact significantly on the outcome for various individuals**

> **given that the Claimant has already been severely prejudiced by your refusing to respond to the ET1 in 20 months and various Judges, including the Tribunal President, himself endorsing this and District Judge striking out a libel claim whilst simultaneously refusing to provide a reason. Either way I can assure you that the outcome is going to be extremely bad for you and some of your colleagues from DAC Beachcroft LLP, for Kathy Stapleton and others from NELFT as well as for Judge Jones and others from the Courts."**

14 At 09:08 and 09:41 the Claimant emailed twice asserting that his email addresses had been blocked, something which he referred to as "**very silly and childish behaviour for a Senior Associate and Her Majesty's Courts.**" After some emails about whether or not he could get annual leave to attend the original date for the Preliminary Hearing, at 16:45, the Claimant emailed in the following terms:

> "**Oh and remember there are various other claims guys – the financial abuse claim that judge jones lied that I dropped…the transcript of that third preliminary hearing remember?- and all of the other claims that have not really been dropped because you have still not provided the Claimant with an initial response to the ET1. The Claimant will establish that those jones' judgment orders are worth less than her toilet paper after you all see the transcript. Do you understand?"**

Adding in a further email at 16:54:

> "**This has already been recorded on legal file long ago. If none of you intervene I will deal with Jones via Met Police. Do you understand?**"

15 On 2 September 2017, the Claimant purported to require that the Respondent's HR representative (Ms Stapleton) and solicitor (Mr Hazelwood) undergo a full lie detector test if they had nothing to hide.

16 On 15 September 2017, the Claimant emailed the Tribunal (addressed to me) in terms which were more temperate and which I have treated as his submissions to be considered at this hearing. The Claimant stated that he was unclear as to what behaviour by him was being relied and asked for clarification so that he could "**respond appropriately for any justified emotive complaints given all of this prejudice and breaking of the law.**" Yet, in the very next paragraph, the Claimant referred to his intention to pursue investigations by the PHSO, Supreme Court and Met Police into his criminal allegations that Judge Ferris had committed an act of libel against him in the second Preliminary Hearing Summary and that Judge Jones had lied in her Judgments. The Claimant at one point wondered: "**whether UK Judges protect each other from County Court claims it is noted that they are not immune to criminal law. PHSO has been beseeched to investigate this, failing which criminal charges will be raised via Met Police.**"

17 On 29 September 2017 the Claimant sent his request that the PHSO intervene in these Tribunal proceedings. In his lengthy email, he repeated his allegations of libel against Judge Ferris and lies by Judge Jones, who conducted what he describes as a corrupt appeal process.

Claimant's conduct of proceedings – case management

18 The Claimant's disruptive behaviour caused the adjournment of the Preliminary

Hearing on 23 January 2017 before case management could properly be considered. The Claimant then failed to comply with the Orders made by Judge Jones. Given the possibility of a further claim following the Claimant's dismissal, the proceedings were stayed for two months from 24 April 2017. The letter to the parties suggested that the Claimant may wish to seek independent advice or appoint a representative as he had blocked the email addresses of the Respondent and the Tribunal, asserting that further correspondence was harassment of him.

19 On 1 August 2017, I attempted to progress the remaining outstanding reasonable adjustments case and as a more proportionate response than an Unless Order, I limited the claim to that already identified in February 2017 and directed that the Respondent draft the PCPs and disadvantages believed to be asserted. The Claimant was advised that if he wished to object he should do so concisely and in writing so that his objections may be considered today. The Respondent served its understanding of the case on 31 August 2017. The Claimant's response was that he was not in a position to submit a response until Mr Hazelwood and myself had commented on the "indisputable legal fact" (as he described it) that he was not required by law to clarify the ET1 or resubmit the grounds of complaint until it had been responded to in the first instance. In other words, he raised again the issue of the 30-page attachment which was determined by Judge Jones in February 2016.

20 The Preliminary Hearing was listed for Thursday 14 September 2017 so that the Claimant could make oral submissions about his conduct and whether a fair trial was still possible. The Claimant initially replied that he could only attend court on a Monday or Friday but subsequently explained that he works for the Ministry of Defence on Tuesday, Wednesday and Thursday in a high profile job as Clinical Neuropsychologist in their neurological rehabilitation service. Despite the Respondent's objections, the postponement was granted on 11 September 2017 for the express reason that justice required that the Claimant be able to attend and provide his representations.

21 On 29 September 2017, the Claimant emailed the PHSO with a request that they investigate his complaints (see above). On 3 October 2017 he applied for a "pause" on the Tribunal proceedings pending the PHSO investigation. The Claimant copied his application to the Respondent but stated that any response would be considered part of the ongoing bullying and harassment. The application for a "pause" was refused by Employment Judge Gilbert.

22 On 4 October 2017, the Claimant sent an email saying that his attendance would be "**endorsing a corrupt process**" and that he would "**not be attending any further hearings or trying to reason with this Tribunal any further**". The Claimant did not attend today.

Law

23 Rule 37 of the Employment Tribunal Rules of Procedure 2013 provides as follows:

> **37.—(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—**

(a)that it is scandalous or vexatious or has no reasonable prospect of success;
(b)that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;
(c)for non-compliance with any of these Rules or with an order of the Tribunal;
(d)that it has not been actively pursued;
(e)that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

(3) Where a response is struck out, the effect shall be as if no response had been presented, as set out in rule 21 above.

24 The decision about whether to strike out for conduct is a two-stage process. The Tribunal must first identify the conduct in question and decide whether it meets the required threshold in respect of the conduct of the proceedings. Only if it does, should the Tribunal consider whether or not to exercise its discretion to strike out. This inevitably involves consideration of whether a fair trial is still possible and whether less draconian sanctions would be appropriate.

25 I have also taken into account of the authorities of **De Keyser Ltd v Wilson** UKEAT/1438/00 and **Carla Bennett v London Borough of Southwark** [2002] EWCA Civ. 223 which repeat the importance that conduct be in the course of proceedings and of the need to consider whether a fair trial remains possible. The word “scandalous” for the purposes of a strike out does not carry its colloquial meaning but the more narrow meaning of either (a) misuse of the privilege of legal proceedings to vilify others, or (b) giving gratuitous insult to the court in the course of such process, see per Sedley LJ at paragraph 27 of **Bennett.**

26 In **Blockbuster Entertainment Ltd v James** [2006] IRLR 630, the Court of Appeal emphasised that strike out was a draconian power not to be too readily exercised. The cardinal conditions for its exercise must be present; either that the unreasonable conduct is taking the form of a deliberate and persistent disregard of required procedural steps or that it has made a fair trial impossible. If these two conditions are fulfilled it is still necessary to consider whether striking out is a proportionate response or whether there is a less drastic solution which may be adopted. A strike out application should not be made at the point of trial, rather the time to deal with persistent or deliberate failure to comply with rules and orders designed to secure a fair and orderly hearing is when they have reached the point of no return.

Conclusions

27 I have set out the conduct of the Claimant relevant to the application above. The first relevant conduct is the content of his correspondence, his repeated allegations of fraud and illegality against Judges Jones and Ferris and his refusal to accept the decision of Judge Jones that the Respondent was not required to respond to the 30-page attachment which was not sent to it with the claim form. The second

relevant conduct is the Claimant's repeated failure to comply with the Orders of Judge Jones and attempts to case manage the remaining reasonable adjustments case even after the dismissal of all other parts of his claim.

28 The Claimant has been provided ample opportunity to reflect upon his behaviour, most explicitly in the Order and Reasons sent to him on 1 August 2017. Whilst not so extreme as in June and July 2017, since that date he has continued to repeat his allegations of fraud and illegality, threatened criminal investigations against them and used language which is intemperate and disrespectful. The Claimant has not apologised and his most recent correspondence gives no reason to believe that he will not continue to conduct himself in such a manner.

29 Attempts to clarify his case and to agree a list of issues have been made since September 2016. The Claimant has repeatedly failed to comply. Proceedings were stayed to give him time to reflect and seek advice, he appears not to have done so. The Orders made by Judge Jones in January 2017 have been described by the Claimant as being worth less than her toilet paper.

30 It is clear that despite being afforded many opportunities to engage with the Tribunal process and to advance his case, the Claimant steadfastly refuses to do so. The warning on 1 August 2017 that he should reflect upon his conduct, the risk that the consequence may well be a strike out and the need to ensure that a fair trial is still possible has not changed the Claimant's approach. As a result, the reasonable adjustment claim is scarcely any closer to a hearing than it was in January 2017. Insofar as progress has been made, it is by the Respondent setting out its understanding of the issues, PCPs and disadvantages relied upon. I accept Mr Hazelwood's submission that rather than engaging to prepare the case for trial, the Claimant's only correspondence with the Respondent and the Tribunal has been to challenge the integrity of both and to challenge the authority of every Judge with whose decisions he disagrees.

31 A party to proceedings is not required to agree with a Judgment or Order come what may; inevitably one side or the other will not where the decision goes against them. Equally a party is able to criticise a court and make unpalatable submissions, so long as they are made civilly and are not gratuitous or devious (see **Bennett** at paragraph 13). However, the party must accept that the Judgment or Order is binding unless and until it is overturned or varied by reconsideration or on appeal to a superior Court.

32 The Claimant does not agree with the conclusions of Judge Jones on 29 February 2016 about the 30-page attachment and whether the Respondent was required to respond to its contents. The Claimant has not lodged an appeal to the EAT but has conducted proceedings instead by effectively refusing to participate unless and until the Tribunal agrees with him and finds that the Respondent is in default of Rule 16(1) for failing to reply to the 30-page attachment. His failure to comply with case management orders has been deliberate and persistent. I am satisfied that his conduct is unreasonable. I am also satisfied that the contents of the Claimant's emails with his serious allegations of illegality against the Respondent, their solicitor, Judges Jones and Ferris and the Tribunal, including fraud and corruption, is conduct which falls comfortably within the definition of scandalous in **Bennett.**

33 The Claimant's emails on 3 October 2017 stating that further correspondence from the Respondent in response to an application for a stay would be an act of harassment and bullying is also unreasonable. It suggests that the Claimant, if not struck out, will repeat the refusal to communicate experienced in the early months of 2017 and which resulted in further satellite litigation, albeit struck out.

34 Having decided that the Claimant's conduct meets the required threshold, I went on to consider whether a fair trial was still possible and whether a lesser sanction is appropriate. I conclude that the answer to both is in the negative.

35 As set out above, the Claimant is again treating correspondence with the Respondent's solicitor as harassment. In his email on 4 October 2017, the Claimant made clear his intention to attend no further hearings. Given his failure to attend today, I am persuaded that this is a considered and settled decision arising out of his dissatisfaction with the Tribunal process. In light of the history of proceedings to date, I consider that the Claimant is unlikely to demonstrate the co-operation required by Rule 2.

36 Since the Preliminary Hearing on 13 September 2016 little, if any, progress has been made in case management and there is no realistic prospect of a fair trial being heard in the foreseeable future. There has yet to be disclosure, an agreed bundle or exchange of witness statements. Even if orders were made, the Claimant has demonstrated that he is unlikely to comply. Further delay and applications for strike out or Unless orders appear to me inevitable. The disciplinary process at the heart of the case is now over two years old. Even without the anticipated procedural difficulties, the final hearing would not take place until April 2018 at the earliest.

37 A fair trial requires fairness to both parties, not just to the Claimant. Further, justice is not simply a question of the court reaching a decision that may be fair as between the parties, in the sense of fairly resolving the issues, but it also involves delivering justice within a reasonable period of time. The Tribunal must also have regard to costs and overall justice which means that each case should be dealt with in a way that ensures that other cases are not deprived of their own fair share of the resources of the court.

38 I accept Mr Hazelwood's submission that the Respondent is entitled to know the extent of the case against it but even now does not fully understand the Claimant's case on substantial disadvantage caused by the PCPs because he refuses to provide the clarification sought. The Respondent is a public body with limited financial resources; it is not fair or in accordance with the overriding objective to impose upon it the burden of preparing a case in the face of the Claimant's intransigence. The Tribunal itself has limited resources and many other cases to be heard. To date this case has required a disproportionate amount of judicial time, with very little progress received.

39 Strike out is a draconian sanction but I am quite satisfied that no sanction short of strike out would be appropriate in this case. For the reasons set out above, a fair trial of this matter will not be possible even if I were to apply a lesser sanction. Such a course has been attempted since February 2017 and has been fruitless to date. There

is no reason to believe in light of the Claimant's most recent correspondence that this will change in the future if a lesser sanction were once again applied. As anticipated in **Blockbuster**, the point of no return has been reached.

40 The remaining reasonable adjustments claim is struck out.

Costs

41 Having given Judgment striking out the claims, Mr Hazelwood made an application for the Respondent's costs pursuant to Rules 74 to 78 of the Employment Tribunal Rules of Procedure 2013.

42 Costs do not follow the event in the Tribunal but may be ordered only where the Tribunal considers that a party has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings or part or the way that the proceedings or part have been conducted. In determining conduct, the Tribunal should consider the whole picture of what has happened in the case.

43 If the conduct threshold is reached, the Tribunal retains a discretion as to whether to make any order and, if it does, the amount of any costs order up to £20,000 and whether to take into account the paying party's means. Although causation is undoubtedly a relevant factor, it is not necessary for the Tribunal to determine whether or not there was a precise cause or link between the unreasonable conduct in question and a specific cost being claimed, see **Yerrakalva v Barnsley Metropolitan Borough Council** [2011] EWCA CIV 1255.

44 Having regard to the findings that I have made above in respect of the Claimant's conduct of these proceedings, I am satisfied that it meets the threshold for the making of a costs order.

45 As for the amount, Mr Hazelwood acknowledges the right of the Claimant to bring his claims but submits that the Respondent should recover all costs incurred following the Ferris Preliminary Hearing on 22 September 2016 when the Claimant failed to attend and failed thereafter to engage with the preparation of the claim. In the alternative, he seeks costs from 10 February 2017 when the Respondent proposed further case management but following which the Claimant's conduct became more unreasonable still.

46 The Claimant was put on notice on 25 September 2017 that a costs application would be made by the Respondent today if its application were successful. The Claimant has not made submissions to resist the making of an order but I have assumed that, if here, he would oppose it on grounds that his conduct had not been unreasonable.

47 Having regard to the Claimant's conduct of the case as a whole, I am satisfied that the appropriate period for which costs should be awarded are from 10 February 2017. The Claimant's response to attempts to progress the claim between September and February 2017 was not particularly cooperative and was misguided, not least as it lead to the majority of his claims being dismissed for non-compliance with an Unless Order in January 2017. Nevertheless, in light of my findings above, it is his conduct

since that date which has been so unreasonable as to have led to the strike out order. The Claimant's unreasonable conduct since 10 February 2017 has required the Respondent to incur cost in trying to identify the issues as the Claimant would not, in the application for strike out and in responding to the Claimant's postponement request.

48 As for the amount of the order, the Respondent produced a costs schedule showing costs of £11,567.64 incurred since February 2017. I am satisfied that those are costs which have been incurred by the Respondent in dealing and responding to the unreasonable behaviour of the Claimant. The Respondent is a public body and has been required to spend a great deal of time and money in dealing with the case to no ostensible advancement. The level of the costs is reasonable and proportionate.

49 As for the Claimant's means, I took into account the content of his most recent correspondence with the Tribunal confirmed that he is presently in paid employment. In an email to the Respondent on 1 September 2017, in connection with his application to postpone the Preliminary Hearing to accommodate his working commitments, the Claimant confirmed that he is working for the Ministry of Defence at Headley Court on a temporary contract and not as a permanent employee. I have no further information as to the length of the contract or the rate of remuneration received by the Claimant. Later in the same email, the Claimant refers to being left in a dire financial situation following his dismissal but states that he had subsequently set up and managed his own business, had been able to return to the job market in an even stronger position than before and recruit to a far more specialist and rewarding new job.

50 Doing the best I can, I am satisfied that there is evidence before me to suggest that the Claimant does have the means to pay costs caused by his unreasonable conduct and so I assess the Respondent's costs at £11,567.64.

Employment Judge Russell

11 October 2017