



EMPLOYMENT TRIBUNALS

Claimant: Mr L Samnick

Respondents: (1) Barclays Execution Services Limited
(2) Jeong Kim
(3) Petrus Theodorus
(4) Maria Rood a.k.a Ron Rood
(5) Konstantina Armata
(6) Claire Fordham;
(7) Faye Richardson
(8) Chris Easdon
(9) Ruth Surendran
(10) Jeremy Haworth
(11) Elyze Gonzalez
(12) Melanie Philips
(13) Sarah Hollinsworth
(14) Claire Cardosi
(15) Nicola Middleton
(16) Lindsey Brown
(17) Sonia Boniface

Determined on the papers

Before: Employment Judge John Crosfill

COSTS JUDGMENT

1. The Claimant is ordered to pay the Respondents £3,500 in respect of their legal costs incurred as a consequence of the postponement of the hearing listed on 29 April 2022.

REASONS

The Application

1. The Respondents have applied for their costs of attending a preliminary hearing that was intended to deal with the question of whether the Claimant's claims in this case were brought within the relevant statutory time limits (or any extension thereof). The Claimant did not attend that hearing and I decided that it was not in the interests of justice to proceed in the absence of the Claimant and acceded to the requests made previously by the Claimant to postpone the hearing.

2. By a case management order sent to the parties on 6 May 2022 I relisted the preliminary hearing for 7 June 2022.
3. The Respondents set out their application for costs in a letter dated 13 May 2022. The Respondents had suggested that in addition to the time limit points the hearing on 7 June 2022 also deal with their application for costs. At that hearing it was agreed that I should deal with the application on the papers having directed that the Claimant make any further submissions in writing.

Background

4. This is the second of two claims brought by the Claimant arising from his employment with the First Respondent. His first claim has is to be heard together with claims brought by two former colleagues. This claim has not been joined to the earlier claims.
5. The Claimant presented his ET1 to the Tribunal on 10 June 2021. He brings claims of unfair dismissal, claims that he has been subjected to a detriment because he has made protected disclosures and claims under the Equality Act 2010. In his ET1 the Claimant states that his employment terminated on 23 February 2021. At paragraph 6 of the addendum to his ET1 he acknowledges that some of his claims might be out of time. He states that it was not 'reasonably practicable' to have presented his claim any earlier.
6. In my case management order sent to the parties on 18 February 2022 I made directions in this claim. I listed a hearing to determine the time limits point. My order provided that the Claimant should file any witness statement relating to the issue of time limits by no later than 23 March 2022. I made other directions designed to identify the issues in the case.
7. On 22 February 2022 Mr Samnick wrote to the Tribunal asking that I vary my case management orders in his second claim postponing all directions until October 2022 he relied upon his health as the reason for his requests. On 4 March 2022 I responded in the following terms:

Mr Samnick asks me to suspend all directions in his second claim until October 2022. He says that he has not got the resources (in the broadest sense) to deal with his second claim. I recognise that Mr Samnick has a disability. The timetable I have set for the preparation for the two preliminary hearings is not onerous. The tribunal is very used to assisting people with all forms of disability and will make any reasonable adjustments to its procedure to accommodate those. There are good reasons for holding an early preliminary hearing to determine whether Mr Samnick's claims are out of time. He has named a large number of individuals and they have a right to have any claims against them determined in a reasonable time. If Mr Samnick seeks a postponement on medical grounds he will need to provide medical evidence specifically directed towards the issue of why he could not comply with the directions that set. He must provide any medical practitioner who he asks to provide such medical evidence with a copy of my case management order. That medical practitioner should note that the only matters that Mr Samnick is required to deal with are to comply with paragraph 5.2, 5.3, 7.1, 7.3 and 7.4. I would expect any medical practitioner to have been made aware of what Mr Samnick has shown himself as being able to do to date. That

medical evidence should be served on the Respondent and the Tribunal as soon as possible. In the meantime I decline to vary my order.

8. Mr Samnick sent a further e-mail to the Tribunal on 23 March 2022 in which he renewed his application. He attached medical evidence to that e-mail. By a letter sent on 25 March 2022 I responded to Mr Samnick. I agreed to vary the order that he provide a witness statement extending the time to do so until 8 April 2022. I declined to postpone the hearing. I gave the following reasons for that decision:

I have carefully reviewed the entirety of the medical evidence sent to me by Mr Samnick. The medical records and letters that he has sent me do evidence the fact that he had a moderate depressive episode requiring treatment through counselling and prescription of antidepressant medication. The documentation records that Mr Salmond has reported experiencing chest pains and panic attacks. There is no record of any physical cause of the chest pains which have been thoroughly investigated. The inference is that the chest pains are a symptom of a mental health condition. The witness statement that Mr Samnick had prepared in accordance with my earlier orders suggest that Mr Samnick has difficulties with motivation and concentration in addition to the symptoms I have briefly described above. The Respondents have conceded that Mr Samnick has a disability falling within section 6 of the Equality Act 2010. In making my earlier decisions about case management and the listing of hearings I had always assumed that the Respondents' concession was properly made. I was aware that Mr Samnick suffered from anxiety and depression and panic attacks when I made my earlier orders.

The issue upon which I asked Mr Samnick to provide medical evidence was on the question of whether he would be placed at any disadvantage either by complying with the timetable that I have set or in attending a face-to-face hearing in April. I have previously taken the view that the timetable that I have set is not at all onerous. Many of the tasks are quite straightforward. I have had regard to the fact that Mr Samnick has been able to correspond with the Respondent and tribunal and produce several large documents. He has been able to attend hearings on the telephone and via CVP in which he has on some occasions represented himself without drawing my attention to any particular difficulties. I have explained that there are compelling reasons for wishing to progress the second claim. The Respondents have a legitimate interest in that claim progressing in a reasonable time and in particular having the potential knockout point that the claims have been presented outside the statutory time limits dealt with as soon as reasonably practicable.

The medical evidence that has been provided does not deal directly with the issues of whether Mr Samnick would be disadvantaged by the orders that I have made or whether or not he is unable to attend a face-to-face hearing. Past experience tells me that many people suffering from moderate depressive episodes and/or panic attacks are capable of complying with directions and attending hearings. The tribunal is particularly well-equipped to assist people with those conditions feel comfortable during a face-to-face hearing. The medical evidence does not deal with the up-to-date situation. Assuming the evidence to be complete it appears that Mr Samnick has had no engagement with any consultant since late 2020 in respect of his mental health when he was discharged with a prescription for antidepressants. Whilst I am prepared to infer that the mental health condition persists I am really not assisted by the provision

of medical evidence which is at least 18 months out of date and does not deal directly with the questions of whether there is any disadvantage in the directions that I have set or in attending a face-to-face hearing.

I am not prepared to vary my orders unless I receive medical evidence that deals directly with the question of whether or not Mr Samnick is placed at any disadvantage by the orders that I have made. Any medical practitioner providing such evidence must be informed that the Tribunal regularly holds face to face hearings with people who have anxiety, depression and panic attacks and is very used to making adjustments to accommodate that. If any medical evidence is directed at the time given to Mr Samnick to complete the orders that I have given I would expect the medical practitioner to be fully informed about the nature of the tasks that I have required Mr Samnick to complete and the time that I have given him to do so. If it is suggested that more time is necessary I would require any evidence to explain what further time would be necessary and why. I would be content to receive such evidence from any medical practitioner or suitably qualified therapist by way of a letter or email.

I do not consider the evidence that has been provided thus far to be sufficient to persuade me to vary my orders.

9. Mr Samnick did not produce any witness statement dealing with the issue of time limits prior to the scheduled hearing dates. He did not comply with any other directions that I made in this particular claim.
10. On 28 April 2022 there was a preliminary hearing in the earlier cases. Mr Samnick attended in person at that hearing. He asked me to allow him breaks during the hearing which I permitted as far as was possible without unduly disrupting the hearing.
11. The earlier claims had been listed for a final hearing commencing on 7 June 2022. There had been significant and protracted disputes about the scope of those claims and no agreement had been reached (and indeed still has not been reached) as to the issues to be determined by the Tribunal in those claims. As a consequence the final hearing was postponed by me at the conclusion of a hearing on 28 April 2022. All three of the Claimants strenuously resisted the postponement and in order to accommodate their arguments the hearing finished later than I had wished. I observed that Mr Samnick appeared tired and commented upon that during the hearing.
12. Mr Samnick has appealed the decision to postpone that hearing and whilst that appeal appears to be entirely academic it is implicit that he is asserting that he would have been in a position to attend that hearing and take part in a 20-day hearing.
13. Mr Samnick told me on 28 April 2022 that he did not intend to attend the hearing on the following day. I informed him that I had already considered two applications made by him to postpone the hearing and had rejected them. I pointed out that he had not provided any medical evidence that supported his application. He informed me late in the afternoon that he had received a medical report from his psychotherapist. He did not ask me to read it. I informed him that I would consider any application he made for a postponement based upon any fresh evidence at the outset of the hearing the following day.

14. At 20:04 on 28 April 2022 the Claimant sent an e-mail to the Tribunal in which he said that he would not be attending the hearing. He attached a letter addressed 'to who it may concern' from Ricky Brown who describes himself as an Integrative Psychotherapist accredited by the British Association for Counselling and Psychotherapy. The Claimant in his written submissions says that he received that letter at 15:00 on 28 April 2022. He did not ask me if I would look at it and he did not send it to the Tribunal at that time. He said:

'I am writing on behalf of Mr Louis Samnick in my ongoing role as his Psychotherapist. Mr Samnick has engaged in weekly online Psychotherapy sessions with myself in excess of eighteen months.

I confirm that Mr Samnick has requested this letter to address the following:

a. Mr Samnick's compromised capacity to comply simultaneously with the two sets of deadlines for both cases, and thus the request that the deadlines be postponed until October 2022.

b. That in my professional opinion, Mr Samnick is not, and will not be fit to attend back-to-back, face-to-face preliminary hearings in person on 28th April 2022 (first claim) and 29th April 2022 (second claim).

I strongly advise against Mr Samnick's compliance with the simultaneous hearing dates as above due to the taxing nature it has had, and continues to have on his psychological and physical state.

Though over the last eighteen months myself and Mr Samnick have therapeutically realised small achievements in his development, this looming court date has continued to, and completely supersedes the work through its ability to render Mr Samnick 'powerless' psychologically. I am prepared and willing to provide detail around symptoms and potential methods of support Mr Samnick would benefit from in preparation for his hearing should this be required.

I apologise sincerely for the delay in communication.'

15. Ms McCann and her instructing solicitor attended the hearing on 29 April 2022. The Respondents took a neutral stance as to whether I should proceed with the hearing in the absence of the Claimant. I decided that I should not and set out my reasons for that in my case management order following the hearing.
16. When he completed his ET1 in this claim the Claimant did not complete the section that asked whether he had obtained alternative employment. The Claimant had submitted a schedule of loss in the earlier claim served after his resignation in which he claims millions of pounds. He does not give any credit for sums received from any new employment. I was told that the Respondent had sought information about attempts to mitigate loss. Mr Samnick did not dispute that he had not given the Respondents any information. At the hearing on 7 June 2022 Mr Samnick was asked questions in cross examination about what he had been doing in the period prior to presenting his claims. Mr Samnick initially was reluctant to say. He eventually gave limited answers that he had been headhunted from his position with the First Respondent and was working for a

different financial institution at a managerial level (which represented a promotion).

The relevant law

17. The jurisdiction to make an order of costs is found in schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) 2013. Rule 76 provides:

“When a costs order or a preparation time order may or shall be made

(1) A Tribunal may make a costs order or a preparation time order, and shall consider whether to do so, where it considers that—

(a) a party (or that party's representative) 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;

(b) any claim or response had no reasonable prospect of success

(2) A Tribunal may also make such an order where a party has been in breach of any order or practice direction or where a hearing has been postponed or adjourned on the application of a party.”

18. There is essentially a 2 (or perhaps 3) stage test. Other than in defined circumstances, before there is any jurisdiction to award costs at all the tribunal must be satisfied that one or more of the threshold conditions set out in Rule 76 has been satisfied. If, and only if, it has should the tribunal move on to consider whether, in the circumstances of the particular case, it is right to make a costs order. Finally, it is necessary to decide what amount, if any to award. See **Monaghan v Close Thornton Solicitors [2002] EAT/0003/01**

19. Notwithstanding the existence of the jurisdiction to award costs the exercise of that jurisdiction remains exceptional **Gee v Shell Ltd [2003] IRLR 82**.

20. In **Barnsley BC v Yerrakalva [2012] IRLR 78** CA Mummery LJ said:

“The vital point in exercising the discretion to order costs is to look at the whole picture of what happened in the case and to ask whether there has been unreasonable conduct by the claimant in bringing and conducting the case and, in doing so, to identify the conduct, what was unreasonable about it, and what effects it had.”

21. Rule 84 of the procedure rules provides that when deciding whether to make a costs order and if so in what amount the Tribunal may have regard to the means of the paying party. The rule is permissive rather than mandatory although it would be an unusual case where the means of the paying party were not a material factor. In **Vaughan v London Borough of Lewisham [2013] IRLR** the Employment Appeal Tribunal, following **Arrowsmith v Nottingham Trent University [2012] ICR 159** held that an assessment of means was not necessarily limited to the ability to pay at the time that the order is made but can have regard to the future prospects of the paying party.

The parties' positions

22. The Respondents' letter suggests that they are seeking their costs pursuant to rules 76(1) (a) or (c). There is no such rule as rule 76(1)(c) and it appears that this is a typing error with an intention to refer to rule 76(2). It is the Respondent's position that the failure of the Claimant to timeously provide sufficient medical evidence to justify an adjournment is conduct that falls within rule 76(1) or (2).
23. The Respondents seek £3,500 representing the daily fee that they have agreed to pay Ms McCann.
24. The Claimant says that the Respondents' application is '*fundamentally misconceived*'. He says that it is clear that he did not attend the hearing on 29 April 2022 because of his mental health issues. He says that he had made an application to postpone the hearing 7 days before the hearing.
25. In his e-mail of 13 July 2022 the Claimant says that the Respondents' application has been made in bad faith as they have knowledge of his disability, knew of his previous applications and had his therapists letter sent on 29 April 2022.
26. The Claimant does not address me on his means.

Analysis

27. The Claimant made two applications to postpone the hearing of 29 April 2022 in advance of the hearing. I refused each application setting out my reasons and stating in terms that I would reconsider the matter if I were provided with medical evidence that substantiated the assertions made that the Claimant was not sufficiently well to attend. The Claimant knew that I had refused his applications and he knew what he needed to do if he wished to renew them.
28. In giving the Claimant guidance on what would be required I was mirroring the Presidential guidance to parties seeking an adjournment which says:

If the request is made because of the ill health of a party or a witness, the request should be accompanied by medical evidence (normally a medical certificate and a letter/document from the treating G.P. or hospital doctor) that confirms:

- *The nature of the health condition concerned and*
- *Importantly, that the doctor considers in his or her professional opinion that s/he is unfit to attend the hearing and the basis of this conclusion. This is important as the fact that a person has a medical condition does not necessarily mean s/he cannot attend a hearing. If possible, the medical evidence should also indicate when it is expected that the person will be fit to attend.*

An Employment Judge must be satisfied on the evidence that it is just to grant a postponement: s/he may ask for additional evidence in a particular case. Parties may wish to note that a medical certificate to the effect that a person is not fit to attend a hearing is not conclusive evidence of that fact.

The request for a postponement should be made as soon as it becomes apparent that the person will be unfit to attend. If the illness develops suddenly and so

close to the start of the hearing that it is not possible to obtain the medical evidence before requesting a postponement, the request should be made at once with an undertaking to provide the necessary medical information within 7 days'.

29. The Claimant had failed to comply with orders that I made in February 2022 that he provide a witness statement (and other orders relating to the preparation of a list of issues). Given that he had acknowledged in his ET1 that some of his claims were out of time he would have recognised that without evidence justifying an extension he was at grave risk of having many of his claims dismissed.
30. The Claimant frequently references his status as a litigant in person. The Claimant holds a senior position in the financial sector. He is well educated and he had frequently produced documents that are littered with references to previously decided cases and statutory provisions. In his ET1 when referring to time limits he uses the phrase 'reasonably practicable' which mirrors the statutory test in Section 111 of the Employment Rights Act 1996. I do not accept that the Claimant is an unsophisticated litigant incapable of understanding the rules of procedure which are in any event applicable to represented and unrepresented litigants.
31. I find that the Claimant knew that I had not acceded to his applications for a postponement or to additional delay in preparing his witness statement and consciously took the decision to await the hearing on 28 April 2022 to announce his intention not to attend. I find that he had decided not to attend well in advance of that hearing. If he had not, he would have produced the witness statement that I had ordered him to produce.
32. The Respondents' application for costs does not depend on a finding one way or the other as to the Claimant's fitness to attend the hearing. They say that their application for costs is justified even if the Claimant was too ill to attend the hearing. They say that insofar as any up-to-date medical evidence was produced it was provided so late that they incurred unnecessary cost.
33. The Claimant was told in clear terms that a postponement would only be granted if the application was supported by medical evidence. The Claimant has not given any satisfactory explanation why he could not have provided such evidence as he has later produced at a much earlier stage. He was aware from 25 March 2022 what was required and therefore had a month to obtain medical evidence.
34. Assuming in the Claimant's favour that there was a proper basis to seek a postponement I find that the Claimant acted unreasonably in not obtaining the medical evidence necessary to support that application and not providing it until 20:04 on the day before the hearing.
35. I find that that unreasonable conduct passes the threshold condition set out in rule 76(1)(a). The Claimant had clearly decided in advance of the hearing that he would not attend the hearing and did not have the courtesy to inform the Tribunal or the Respondents of that fact until the day before the hearing took place. He provided some medical evidence only after the Respondents had incurred the costs of a postponement. I shall not deal with the alternative position that the threshold condition in rule 76(2) has been met.
36. The Claimant has made submissions about the hearing on 28 April 2022 and said that he found that hearing exhausting. I have found above that the Claimant had

no intention of attending the hearing on 29 April 2022 and had decided upon that before 28 April 2022. Whether the effect on the Claimant of the hearing on 28 April 2022 had any impact on his ability to attend on 29 April 2022 is not relevant to his unreasonable conduct before that but is relevant to the question of whether there would have been a postponement in any event – a matter which I shall have regard when looking at the discretion to make a costs order.

37. Despite a finding that the Claimant has behaved unreasonably, here essentially unilaterally deciding to ignore my refusal of applications for a postponement, it does not automatically follow that I should make a costs order. I need to consider whether the Claimant's health played a part in his unreasonable conduct and look at all of the surrounding circumstances.
38. I must not make any assumptions about the Claimant's health but must evaluate the evidence I have. The Respondent has conceded that the Claimant was disabled at all material times. Having a disability does always not mean that a party cannot comply with directions. I set out an evaluation of the medical evidence I was sent by the Claimant in March in my letter to the parties sent on 25 March 2022. There was evidence that the Claimant had been unwell in the past but no independent evidence that would allow me to infer that the position remained the same over a year later. Many episodes of moderate depression will resolve themselves.
39. I have had regard to the letter from Mr Brown sent on 28 April 2022. I do not find that letter compelling. Mr Brown does not suggest that he has any clinical expertise although I accept that he is an accredited counsellor. Mr Brown gives no reasons whatsoever for his conclusions that the Claimant was unable to comply with my directions (which gave him many weeks to provide a witness statement). He suggests that the second hearing would be 'taxing'. As I indicated in my case management order of 29 April 2022 had I seen that letter prior to the morning of the hearing I would have sought further information to attempt to ascertain the basis of Mr Brown's opinions.
40. Whilst I recognise that attending a court hearing and attending work are not the same I do consider that in assessing Mr Samnick's ability to comply with orders and make timely applications for an adjournment I am entitled to have regard to the fact that he is working as a manager in a financial institution at a higher level than with the First Respondent where he was required to demonstrate a high level of skill.
41. There is an obvious tension between the Claimant informing me that he is unable to attend a hearing the day after another hearing whilst at the same time opposing a postponement of a 20-day hearing to start just 6 weeks later. The tension between those positions supports an inference that the Claimant is willing to participate in the hearings he wishes to participate in but is reluctant to engage with a hearing where he must persuade the Tribunal that his claims were presented within statutory time limits.
42. The Claimant has sent me a further letter from Mr Brown dated 26 May 2022. That letter was provided in support of an application to hold the adjourned hearing by video. I acceded to that request for pragmatic reasons without necessarily accepting the evidence given by Mr Brown. There are some aspects of this letter that cause me concern. Mr Brown states, as if it were fact, that the Claimant has

suffered from discrimination (rather than acknowledging that this was the Claimant's account). He suggests that the Claimant is suicidal. There is no evidence that the Claimant has consulted a medical practitioner about this. He links this to unidentified '*unmanageable expectations and relentless trauma*'. I can only assume that that is a reference to the orders that I have made. There was nothing unmanageable about the directions I set. The Claimant has in this litigation produced voluminous correspondence and documents when he has wanted to.

43. Having regard to the entirety of the evidence I am not satisfied that the unreasonable conduct I have found was caused by the Claimant's health. Given his demonstrable abilities to hold down a responsible high-level job and his abilities to produce long complex documents in this litigation I do not accept that his abilities are impaired to the extent that he has suggested. On balance I cannot accept that the Claimant's ill health prevented him from complying with my directions and, more importantly, if necessary making a properly evidenced application for a postponement in good time.
44. I turn to the question of whether there would have needed to be a postponement in any event because the Claimant was tired after the hearing on 28 April 2022. I accept that there might have been an application for a postponement by the Claimant on the basis that he had not prepared a witness statement but that is irrelevant. I have found that he had no good reason not to do so and it is independent of the hearing on 28 April 2022.
45. I accept that the hearing on 28 April 2022 ended after 5pm and was a long day for everybody. I also accept that the Claimant looked tired. It was unfortunate that we sat that late but I was dealing with robust opposition to my decision that the matter was not ready for a final hearing. The Claimant was plainly disappointed at my decision. I had agreed to give the Claimant breaks in the proceedings and I did so.
46. As I have found above the Claimant had already decided that he was not going to participate in the hearing on 28 April 2022. Against that background I approach any suggestion that the effect of the hearing on 28 April 2022 had any bearing on his decision not to attend on 29 April 2022 with caution. I have regard to the fact that the Claimant was pressing for the 20-day hearing to proceed and the fact that he only reluctantly has revealed that he has been working in a responsible job. The evidence from any qualified practitioner is so old as to have little bearing on the present situation. The evidence from Mr Brown is almost wholly unreasoned and comes from a counsellor who is not a medical professional although he is an accredited therapist. Having regard to the totality of the evidence that I have been provided with including statements from the Claimant both formal and in correspondence I am not satisfied that the Claimant was so unwell that he was unable to attend the hearing on 29 April 2022.
47. In his submissions the Claimant says that he did provide the evidence that I had directed him to provide before 29 April 2022. I will put to the side the fact that I would not have granted a postponement on the basis of Mr Brown's letter (even in conjunction with the medical evidence). The simple fact was that referring to the existence of the letter at 3:00pm on 28 April 2022 and sending it 5 hours later was simply too late. No application for an adjournment had been granted and the Respondent had no choice but to attend the hearing.

48. I have asked myself whether in the light of the matters above I ought to make an order for costs. I decide that I should. There has been unreasonable behaviour that has directly caused the Respondents to incur costs. Even assuming in the Claimant's favour that he was not sufficiently well enough to comply with the directions and attend the hearing I do not accept that a person holding down a high-level job in a financial institution was incapable of making a timely application for a postponement properly supported by evidence. I consider this to be seriously unreasonable conduct.
49. I turn to the final question of what costs I should order the Claimant to pay. I had not granted the Claimant a postponement and the Respondent had no choice but to turn up on 29 April 2022. The sum of £3,500 is towards the top end of what I would consider reasonable for junior counsel for a 1-day hearing (or a refresher). However, this is complex litigation and the Respondent has not acted unreasonably in engaging experienced specialist Counsel. On the Claimant's case the value of his claims, all together, is millions of pounds. He has joined in numerous individuals and the issues are complex.
50. I have considered whether the fees claimed should be reduced to reflect the fact that the preparation for the hearing by Ms McCann will not be altogether wasted. She would of course need to refresh her memory prior to the adjourned hearing. However, my understanding is that the costs do not include preparation time but are essentially a daily rate for attendance.
51. Having had regard to all of these matters I consider that the costs claimed by the Respondents were reasonably incurred.
52. The Claimant has not said anything about his means. I am not obliged to take his means into account but I have done so. The Claimant works in the banking industry. I know he has young children and is married. I am not restricted to asking what the Claimant might pay today but can have regard to his earning potential. In the light of what I know there is no reason to think that the Claimant could not afford to pay the costs claimed by the Respondents within a reasonable time.
53. For these reasons I order the Claimant to pay the Respondent's costs of 29 April 2022 in the sum of £3500.

Employment Judge John Crosfill
Date: 23 September 2022