



EMPLOYMENT TRIBUNALS

LONDON CENTRAL

Claimant: Mr Michael Lambrianos

Respondent: Nowy Styl UK Limited

JUDGMENT

APPLICATIONS FOR COSTS

The applications for costs made on behalf of both claimant and respondent are refused.

REASONS

1. The claimant brought a claim for unpaid commission in respect of multiple sales which he maintained that he had secured during a relatively brief period of employment with the respondent. Following the hearing of his claim which took place on 16 and 17 February 2023, by a judgment sent to the parties on 10 March 2023, the Tribunal determined that the respondent owed the claimant outstanding commission in the sum of £716.40.
2. By an application dated 7 March 2023 made under rule 76(1)(a) of the Employment Tribunal's Rules of Procedure 2013, the claimant seeks costs he incurred in instructing counsel for the hearing, in the sum of £2,600.

3. In response, by letter dated 17 April 2023, solicitors for the respondent oppose the application. They rely upon the following grounds :-
 - (i) the claim was for a sum of almost £25,000, based upon sales to at least 44 clients.
 - (ii) 11 months before the hearing, the respondent conceded one of the heads of claim (Silverman). During the hearing, a further single head of claim was conceded (Rosehill). The Tribunal further determined that the Claimant was entitled to commission on another claim item (Showcase), arising from the sale of a single item of furniture. The great majority of the claims advanced by the claimant were therefore unsuccessful: equating to some 2.8% of the claim value.
 - (iii) the major claim items were advanced without any supporting evidence. Such claims were entirely speculative.
4. The respondent characterises the costs application as wholly without merit and seeks its own costs of £700 in having to respond to the same.
5. The Tribunal considers that its power to award costs under Rule 76 is not engaged in this instance. The claim substantial failed. The findings that were made in favour of the claimant represented, as the respondent points out, a very small portion of what he sought to recover. The concessions that were made by the respondent both prior to and during the hearing were pragmatic and sensible and of a kind encouraged by the Tribunal. There is no proper ground for asserting that the respondent has acted unreasonably, whether in deciding to defend the claim or in the manner in which its defence was conducted.
6. Although the Tribunal sees the force in the objections raised by the respondent in their solicitor's letter of 17 April 2023, and considers that they have been put to unnecessary expense in consequence of this application, the Tribunal is not minded to make a costs order on behalf of that party, exercising its discretion under Rule 76.

7. The applications for costs made on behalf of both claimant and respondent, are refused.

Employment Judge Sutton KC

21 May 2023

Sent to the parties on:

22/05/2023

For the Tribunal Office: