

EMPLOYMENT APPEAL TRIBUNAL
FLEETBANK HOUSE, 2-6 SALISBURY SQUARE, LONDON EC4Y 8AE

At the Tribunal
On 17th October 2018

Before

HIS HONOUR JUDGE SHANKS

(Sitting Alone)

MR R CABEZUELO

APPELLANT

(1) STELLA TRAVEL SERVICES UK LTD
(2) DNATA

RESPONDENTS

Transcript of Proceedings

JUDGMENT

APPEARANCES

For the Claimant

No appearance or representation by
or on behalf of the Appellant

For the Respondent

No appearance or representation by
or on behalf of the Respondent

SUMMARY

PRACTICE AND PROCEDURE – Disposal of appeal including remission

The parties agreed that the Claimant's appeal against a Costs Order made against him in the Employment Tribunal ("ET") should be allowed to the extent of deducting the VAT which had wrongly been included in the sum ordered to be paid.

In allowing the appeal and substituting an Order for the payment of the lesser amount, the Employment Appeal Tribunal ("EAT") also had jurisdiction by virtue of section 35(1)(a) of the **Employment Tribunals Act 1996** and Rule 66 of the **Employment Tribunal Rules** to specify a time for payment of the new amount.

A **HIS HONOUR JUDGE SHANKS**

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1. By a Judgment following a Preliminary Hearing at which the Claimant was represented by Mr John Neckles, the Claimant’s claim of unfair dismissal was struck out and he was ordered to pay £7,500 in costs, which included VAT. The Judgment was sent out as long ago as 27 January 2017. The Claimant sought to appeal against the Judgment and the Appeal was allowed to go forward but only on the basis that VAT should not have been included in the costs award, so that the amount of costs should have been £6,000.

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2. The Respondents below, and to the Appeal, agreed that the Appeal should be allowed to that extent and the parties have therefore not appeared today. However, there is a point at issue which the parties have, in effect, agreed should be resolved on the papers.

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3. A draft Order put forward by the Respondents says this: “*The Claimant shall pay the Respondents costs of the claim in the sum of £6,000 within 14 days.*” Mr Neckles, still representing the Claimant, takes great exception to the inclusion of a time for payment within the EAT Order. He says the EAT has no jurisdiction to include such a provision. There is no suggestion in the papers that his client is asking for further time, and indeed such a request would be surprising as we are now approaching two years on from the original Order, so the issue is purely one of jurisdiction.

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4. Section 35(1) of the **Employment Tribunals Act 1996** says this:

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“For the purpose of disposing of an appeal, the Appeal Tribunal may-

(a) exercise any of the powers of the body or officer from whom the appeal was brought, or

(b) remit the case to that body or officer”.

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A I am quite satisfied that that provision gives me power to impose a time for payment of the Cost's Order given that Rule 66 of the **Employment Tribunal Rules** empowers the Employment Tribunal to impose such a time.

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5. Given the long history and the fact that the money has not yet been paid, and the possible scope for confusion, it seems to me a good idea to specify today a date for payment. As I have said, there is no suggestion that the Claimant is seeking further time and Mr

C Neckles's insistence that a date should not be imposed, if anything persuades me that to do so is a good idea.

D 6. I therefore allow the Appeal and substitute an Order that the sum of £6,000 is to be paid by the Claimant to the Respondents for costs and that that sum is to be paid by close of business on 2 November 2018.

E 7. I have mentioned to my clerk that it is important that the Order is despatched within the week, which will give at least 14 further days to the Claimant to organise the payment of the costs which he was ordered to pay back in January 2017.

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