

Costs in the Employment Tribunal

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25 September 2020

Costs in the Employment Tribunal remain the exception rather than the norm - in the vast majority of cases, parties are expected to bear their own costs, regardless of who 'wins'. Where costs awards are issued, they tend to be fairly low, with the average costs award for 2018/2019 being £2,400. This will not, however, always be the case, as a recent Employment Tribunal case aptly demonstrates.

In *Tan v Copthorne Hotels Limited*, the Employment Tribunal has ordered the Claimant, Mr Tan, to pay his former employer over £430,000 (with credit to be given for sums already paid) in a judgment on costs. This follows the Employment Tribunal's dismissal of all of Mr Tan's claims against his former employer back in 2018. In that original judgment, the Employment Tribunal made various criticisms of Mr Tan, including that one of his claims (in respect of allegation of pay discrimination) was a *"fishing expedition"* and that he had taken a *"scattergun approach"* in referring to every possible claim he could think of to strengthen his position during a redundancy exercise. However, the greatest criticism related to Mr Tan's admission that he had made tens of hundreds of hours of covert recordings of colleagues (and during an occupational health assessment). The Employment Tribunal described his conduct as deceitful, duplicitous and underhand, and held that this conduct would have completely eroded any trust and confidence.

At a time when Tribunal resources are being increasingly stretched, this case should act as a reminder for both parties that costs risks for speculative claims (or defences) are real, and can be significant.

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