



# EMPLOYMENT TRIBUNALS

**Claimant**  
Mr P Liburd

**AND**

**Respondent**  
Birmingham Women's & Children's  
NHS Foundation Trust

## JUDGMENT OF THE EMPLOYMENT TRIBUNAL

(hearing type code "V")

**Heard at:** Birmingham (remotely by CVP)

**On:** 7, 8, 9 December 2020 and 25 February 2021 (with the parties)  
21 December 2021 (tribunal only, in chambers)

**Before:** Employment Judge Dimbylow **And** **Members:** Mrs S Bannister  
Mrs D Rance

### Appearances:

**For the claimant:** Ms L Moses, Counsel (on 7, 8, and 9 December 2020),  
and Mr G Davies, Advocate (on 25 February 2021)

**For the respondent:** Miss S Bowen, Counsel

## JUDGMENT

**This hearing took place against the background of the coronavirus pandemic; and was conducted remotely by video platform in accordance with safe practice and guidelines.**

**The unanimous judgement of the tribunal is that:**

1. The claimant was fairly dismissed by reason of capability and therefore his claim for unfair dismissal is not well-founded, fails and is dismissed.
2. We declare that the claimant was not disabled within the meaning of the Equality Act 2010 (EqA) because of a mental impairment of an "anxiety condition".
3. We declare that the claim that the claimant was discriminated against because of something arising from his disability of cancer when he was dismissed because of capability and long-term sickness absence is well-founded. However, we make no award of compensation for any economic losses or injured feelings because the claimant caused or contributed to his

dismissal to the extent of 100% and it would not be just and equitable to do so.

Employment Judge Dimbylow  
**25 February 2021**