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EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr A Boylin

and

Respondent

Unified Comms
Limited

Held by CVO on 19 February 2021

Representation

Claimant:

In Person

Respondent:

Mr S Haque, Trainee
Solicitor

Employment Judge Kurrein

JUDGMENT

- 1 The Claimant was a disabled person for the purposes of the Equality Act 2010 at all material times.

REASONS

- 1 This matter came before me for an open preliminary hearing to determine two matters:-
 - 1.1 Was the claimant a disabled person at the relevant time; and
 - 1.2 Were the claimant's claims for unfair dismissal and unauthorised deductions presented in time and, if not, should time be extended?
- 2 On 1 August 2020 directions were given for the claimant to provide medical evidence and a statement setting out the nature of his disability and the effects it had on his day to day activities. That evidence was provided, rather later than was intended.
- 3 I heard these submissions on behalf of the respondent. They were largely to the effect that further medical evidence was necessary because there was an inconsistency between the claimant's GP having certified him as fit to return to work, his mental health condition having been resolved for the indefinite future, and the evidence in her letter of 25 September 2020.
- 4 I did not take the view that such a discrepancy was either unusual or such as to undermine the GP's detailed letter. It is not at all unusual for employees to prevail upon their GP to sign them as being fit to return to work because of their financial circumstances or their fear that further absence might lead to the loss of employment.

- 5 I accepted the claimant's evidence that he had a complete mental breakdown on 31 October 2018 and was advised by the respondent to go home on supposed unpaid leave. Thereafter, although he tried to return to work, he was unable to do so and was dismissed in March 2019. Prior to that breakdown he had been losing weight, was unstable, had suicidal ideations and was emotionally distressed. He had difficulty with all day to day activities. These were contributed to by his emotional distress and by lack of sleep arising from it. He had not responded well to medication, had seen specialist mental health teams and changed his lifestyle in order to assist his recovery. It was more than two years from that breakdown before he felt able to find another job.
- 6 Dr Hill, the claimant's GP throughout, saw the claimant in October 2018. He was also seen by the practice's mental health practitioner, who saw him regularly until July 2019. At that point the claimant symptoms were concerning enough for him to be referred urgently to the community mental health team.
- 7 The Claimant does not appear to have been seen by his GP again after that referral. However, he was reviewed in August 2020, and although his condition had improved he was still depressed on some days.
- 8 In response to specific questions posed to her Dr Hill, in summary, said,
- 8.1 The claimant has a single impairment which in her opinion would qualify him as disabled under the Act
- 8.2 That condition was depression, a mental impairment with physical effects associated with the severity of his symptoms.
- 8.3 The impairment was first diagnosed on 31 October 2018.
- 8.4 The claimant's symptoms impacted significantly on his ability to carry out his activities of daily living. That had been the case for a year by the time he had been seen in October 2018, and continued to a degree for nine months thereafter.
- 8.5 There was a risk of his condition recurring.
- 9 On the basis of the evidence before me I am satisfied that the claimant had an impairment that had a significant long term adverse effect on his ability to perform normal day to day activities. He was disabled for the purposes of the Equality Act 2010.
- 10 I took the view it was not appropriate to deal with the time point in respect of the unfair dismissal and unauthorised deductions claims. All the evidence relating to those matters will have to be heard for his discrimination claims to be dealt with. There would be no saving in time or costs.

4/3/21

Employment Judge Kurrein

Sent to the parties and
entered in the Register on : :

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For the Tribunal

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