



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs K S Pitman

v

Tesco Stores Limited

Heard at: Cambridge (by CVP)

On: 4 August 2021

Before: Employment Judge Ord

Members: (delete if not required)

Appearances

For the Claimant: Mr Denman, Lay Representative

For the Respondent: Mr H Zovidavi, Counsel

JUDGMENT on a PRELIMINARY ISSUE

The Claimant was at all material times a disabled person within the meaning of Section 6 of the Equality Act 2010.

REASONS

1. The Claimant gave evidence and swore to the truth of her Impact Statement. There was also produced to me a number of documents and medical records.
2. The Claimant was not cross examined on the truth of her statement.
3. The Claimant suffers from what are described in the Occupational Health Report of 21 July 2021, obtained by and prepared for the Respondent, as mental and physical health and disabilities preventing her from working.
4. She has chronic left leg and foot pain as a result of a deep vein thrombosis in the left leg with post thrombotic changes / swelling. She has had chronic left foot pain since suffering a fracture in 2019. She has pain in the right foot due to compensation for the weakness in the left. She is awaiting injections in both feet.

5. She is awaiting assistance from a Pain Management Clinic.
6. The chronic pain negatively impacts her mental state and mood which creates what is described by Doctor Stehle as a “*vicious circle*”. Attempts to treat her Post Traumatic Stress Disorder, depression and anxiety is hampered by the high levels of pain and physical disability.
7. Doctor Stehle accredits the Claimant suffering from PTSD, stress, anxiety, limited mobility and being in chronic pain.
8. The Claimant cannot drive due to lower limb symptoms, has significantly impaired mobility, does not leave the house very often and tries to do some physical activity in short bursts at home but struggles. She has difficulty showering and getting dressed, cannot cook or prepare meals and has reduced function of the upper body as she also suffers from costochondritis.
9. The Claimant reports symptoms of low mood, disturbed eating patterns, poor sleep, nightmares, reduced memory and concentration.
10. The Claimant reported that she has significant difficulty with day to day activities. She tells me that unless she has assistance she cannot go out shopping. She has difficulty preparing food, as a result of which she is living on ready meals and food that is easy to prepare such as sandwiches and has difficulty sleeping.
11. All of these conditions result in significant impact on her ability to carry out normal day to day activities. She has substantially reduced mobility as a result of her foot / leg condition, she has difficulties with normal day to day activities such as shopping and preparing food for the same reason and because of her costochondritis. She is suffering from depression, anxiety and Post Traumatic Stress Disorder, as a result of which she has disturbed sleep patterns and nightmares.
12. In the circumstances I am satisfied that the Claimant is a disabled person and has been throughout the period of time within the meaning of Section 6 of the Equality Act 2010.
13. I note, that during her giving evidence regarding her day to day condition and the lifestyle difficulties which the Claimant is suffering, she became, understandably, distressed.
14. It is somewhat disappointing that in the face of all the evidence which has been provided by the Claimant and the Occupational Health Report obtained 15 days prior to this Hearing by the Respondent, the Respondent was unable to give proper instructions to Counsel which would, on any sensible reading of the Claimant’s statement and medical evidence provided, have avoided the need for the formality of this Hearing. Mr Zovidavi was in the unenviable position of being unable to offer any assistance in that regard. The fact that the Claimant was not cross

examined, nor was her evidence challenged in any way, is indicative of the reality of the case.

6 August 2021

Employment Judge Ord

Sent to the parties on: .3 September 21
THY

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For the Tribunal Office