



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr. J. Durbin

**Respondent:** Marks and Spencer PLC

**HELD BY:** CVP **on:** 8<sup>th</sup>, & 11<sup>th</sup> – 14<sup>th</sup> April 2022

**BEFORE:** Employment Judge T. Vincent Ryan  
Ms L. Owen  
Mr. P. Charles

## REPRESENTATION:

**Claimant:** Mr. D. Curwen, Counsel

**Respondent:** Ms. K. Parker, Counsel

# JUDGMENT

The unanimous judgment of the Tribunal is:

1. At all material times the respondent knew, but in the alternative ought reasonably to have known, that the claimant was a disabled person by reason of “a congenital deformity of the hands”, but not by reason of asthma.
2. The claimant’s claim that the respondent failed in its duty to make reasonable adjustments (the provision of appropriate gloves) in accordance with sections 20 - 21 Equality Act 2010 (EqA) is well-founded and succeeds.
3. The respondent shall pay to the claimant **£11,181.43** in respect of the judgment at paragraph 1 above as follows:
  - 3.1. Damages for injury to feelings: £9,000.00
  - 3.2. Interest on the award at paragraph 3.1: £1,800.56 (agreed by the parties)
  - 3.3. Compensation for loss of earnings: £294.90
  - 3.4. Interest on the award at paragraph 3.3 above: £30.31 (agreed by the parties).

4. The following claims relating to events and words spoken on 15<sup>th</sup> September 2019 were presented to the Tribunal out of time in circumstances where it would not be just and equitable to extend time to the date of presentation on 22<sup>nd</sup> July 2022; the Tribunal has no jurisdiction and they are dismissed:
  - 4.1. Direct disability discrimination (s.13 EqA)
  - 4.2. Harassment in relation to the protected characteristic of disability (s.26 EqA)
  - 4.3. Discrimination arising from disability (s.15 EqA).
5. The claimant's following claims are not well-founded, fail, and are dismissed:
  - 5.1. The claimant's claim that the respondent failed in its duty to make reasonable adjustments (the provision of a face mask(s)) in accordance with sections 20 - 21 Equality Act 2010 (EqA)
  - 5.2. Direct race discrimination (s.13 EqA)
  - 5.3. Harassment in relation to the protected characteristic of race (s.26 EqA)

Employment Judge T.V. Ryan

Date: 14.04.22

JUDGMENT SENT TO THE PARTIES ON 19 April 2022

FOR THE TRIBUNAL OFFICE Mr N Roche

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing (and no such request was made) or a written request is presented by either party within 14 days of the sending of this written record of the decision.