



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs T Kowalski

**Respondent:** Asda Stores Ltd

**Heard at:** London Central by video      **On:** 14<sup>th</sup> July 2022

**Before:** Employment Judge B McKenna

**Appearances:**

Claimant: Mr Antony Sendall, Counsel

Respondent: Ms Sarah Ashberry, Solicitor

## JUDGMENT ON PRELIMINARY HEARING

Following the hearing of submissions from the parties, the judgment of the Tribunal is that:

**Removal of Respondents**

- (1) The First Respondent gave an undertaking to the Tribunal and to the Claimant that it would accept liability for the conduct of the Second Respondent (an employee of the First Respondent), and accept responsibility for any remedy awarded by the Tribunal in respect of his conduct, and would call him to give evidence at the full merits hearing and would not seek to rely upon the defence in section 109(4) Equality Act 2010.
- (2) The Tribunal decided in light of that undertaking and those submissions to remove the Second Respondent from the proceedings.
- (3) All claims will continue to be pursued against the First Respondent.

**Amendment of Claim Form**

10.2 Judgment - rule 61

- (4) By consent, the Claimant's application to amend the claim form by replacing the PCP set out in paragraphs 45 to 50 of the Claim Form is replaced with the wording set out below is granted:

“Did the Respondent apply a PCP to the Claimant of not giving credit for disability-related absence when assessing the Claimant's capability to perform the role?”

Employment Judge **B. McKenna**

Date 14<sup>th</sup> July 2022

JUDGMENT SENT TO THE PARTIES ON

14/07/2022.

FOR THE TRIBUNAL OFFICE

Notes

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 or a written request is presented by either party within 14 days of the sending of this written record of the decision.

**Public access to employment tribunal decisions**

Judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.