



EMPLOYMENT TRIBUNALS

Claimant: Ms. S. Delekat.

Respondent: Maidstone Borough Council

Heard at: London South via CVP

On 05 February 2024

Before: Employment Judge T.R. Smith

Representation

Claimant: In person

Respondent: Ms. Cullen (counsel)

JUDGMENT

At the relevant times the claimant was not a disabled person as defined by section 6 Equality Act 2010 because of the conditions of ADHD and /or endometriosis and /or a stress fracture.

Written reasons supplied pursuant to a request from the claimant dated 07 February 2024

The Issue

1. The purpose of the hearing was to determine whether or not the claimant was a disabled person within the meaning of section 6 of the Equality Act 2010 ("EQA 10") at the material time, that is the time of the alleged discriminatory acts.

2. Whilst the respondent conceded that the claimant was a disabled person in respect of dyslexia for the purposes of section 6 EQA, it disputed that she was a disabled person in respect of the following conditions: -

- ADHD, and/or
- endometriosis and /or
- a stress fracture.

The background

3. The claimant was employed by the respondent as a waste crime officer for a relatively short period, namely from 08 June 2022 until 01 January 2023. However, the claimant was absent from work from 30 September 2022, until her dismissal, principally due to stress. The material time, at its highest, is from the start to the termination of the claimant's employment

4. The claimant currently has before the tribunal the following complaints: -

- Protected disclosure detriment, s 48 Employment Rights Act 1996 ("ERA 96").
- Automatic unfair dismissal, protected disclosure, s 103A ERA 96.
- Direct disability discrimination, s13 EQA 10.
- Discrimination arising from disability, s 15 EQA 10.
- A failure to make reasonable adjustments, s 20/21 EQA 10.
- Harassment related to disability, s 26 EQA 10.
- Direct sex discrimination, s 13 EQA 10.
- Harassment related to sex, s 26 EQA 10.
- Victimisation, s 27 EQA 10.

The evidence.

5. The respondent placed before the tribunal a bundle of documents totaling 387 pages.

6. The claimant produced a separate bundle. Although paginated by reference to appendices, there were clearly appendices missing, for example the bundle leaped from appendix 3 to 7. The claimant also produced two additional appendices she

relied upon, A155 and A156.

7. There was a very significant element of duplication between the two bundles. A reference to a page number is a reference to the respondent's bundle, unless otherwise stated.

8. The tribunal also had before it an impact statement from the claimant, dated 15 September 2023, which consisted of 11 pages (194 to 203) and heard oral evidence from the claimant.

9. During the hearing the tribunal stressed to the claimant it was for her to place before the tribunal all the evidence on which she relied. It was for this reason that she had been previously ordered to prepare an impact statement. The tribunal would also take into account any relevant evidence but it was not for the tribunal to trawl through all the documentation in the bundles to find evidence that might assist the claimant.

10. There were three particular evidential matters the tribunal considered appropriate to record prior to making its findings of fact.

The impact statement

11. Firstly, Employment Judge Burge had, at a preliminary hearing held on 05 October 2023, directed the claimant to serve, amongst other things, an impact statement. The tribunal considered it was entitled to conclude that even though the claimant was a litigant in person she would give her best examples of the effect of each impairment on her normal day-to-day activities in that statement.

12. The claimant was specifically asked by the tribunal, having adopted her statement in evidence, if she wished to make any additions to her impact statement and declined to do so.

The medical evidence

13. Secondly the medical evidence from the claimant's GP, lodged by the claimant was remarkably brief and internally inconsistent and inconsistent with the claimant's own evidence.

13.1. There were, apparently, from one document six active significant problems namely dyslexia from childhood, ADHD from 13 May 2022, endometriosis from 11

August 2023. fibromyalgia from 07 February 2022, cobalamin deficiency from 22 November 2022 and a stress fracture from 30 May 2023 (313 to 315).

13.2. In another document from the GP there were three significant problems, dyslexia, ADHD and endometriosis (279).

13.3. There was no explanation for the inconsistencies

13.4. There were no details in the GP records, for example, of the number of times the claimant had presented, what the claimant had stated were her symptoms, how they were affecting her, what the GP had concluded in respect of the reported symptoms, what treatment plan was agreed upon, and whether a referral had been made to a hospital or consultant.

13.5. The claimant contended that the date given by her GP for the diagnosis of endometriosis was wrong, 11 August 2023 (i.e. A date after her employment had ended). There was no letter from the GP explaining the error or how it occurred. It is proper to record, however the claimant showed the respondent and the tribunal a page from her NHS app which displayed an earlier diagnosis date of August 2016. Unfortunately, that date, in turn, did not correspond with the date given by the claimant in her impact statement, October 2014.

13.6. There was some medical evidence in respect of ADHD and the stress fracture, which the tribunal will deal with in due course. However, there were still significant gaps in the evidential trail. By way of example, the claimant said in her impact statement that she had informed a Mr. Jack Orwell of her diagnosis of ADHD and that she was “*awaiting medication*” (194). There was nothing before the tribunal which it was taken too, in respect of any medication being prescribed to the claimant in this regard.

13.7. To the extent there were any fit notes from the GP whilst the claimant was employed by the respondent, the GP had simply stated the claimant was suffering from work-related stress, or stress and anxiety. There was no reference to the conditions the claimant said constituted disabilities.

Credibility

14. Thirdly there was the issue of credibility. Ms. Cullen was critical of the claimant's credibility and asked for an adverse finding to be made.

14.1. When the claimant applied for employment with the respondent the only condition, she declared was her dyslexia. When she was examined by the respondent's occupational health physician that was the only condition that the advisor recorded, although the claimant contended, she mentioned other conditions. The tribunal considered that unlikely. Given that the purpose of the assessment by occupational health was to assess the claimant's suitability for employment the tribunal considered that anything mentioned would have been recorded.

14.2. Whilst employed by the respondent the claimant applied for alternative employment.

14.3. In one application, in October 2022 to Saxon Way Primary School, for the post of a learning support assistant, she indicated she did not consider she had a disability (even though there was a box where person could indicate that they would prefer not to say) and in a second application to River Mead Inclusive Trust on 07 October 2022 she indicated that her only disability was dyslexia. (386).

14.4. In neither application did she make any reference to endometriosis and /or a stress fracture. The former, on the claimant's evidence, being a condition she had been experiencing for a number of years.

14.5. In her application to the employment tribunal, she did not tick the disability box.

14.6. She had given differing dates as regards the diagnosis of her endometriosis.

14.7. There was no persuasive evidence to explain why the GPs notes were contradictory.

14.8. The tribunal considered some of the points raised by Ms. Cullen was satisfactorily answered. The claimant clearly made a clerical error in her tribunal claim form, given she specifically referred to disability in the accompanying document.

14.9. Turning to the job applications for other work, whilst the tribunal accepted a disabled person might have some reluctance in disclosing their disabilities when applying for alternative employment, it was surprising she did not tick the "prefer not to say" box if that was the real reason for her non-declaration.

14.10. Similarly, why she did not disclose the disabilities, that were in existence at the time and which she now relies upon to an occupational health professional

employed by the respondent was troubling.

14.11. The tribunal was not prepared to go as far as invited by Ms. Cullen to find the claimant was an incredible witness.

14.12. It was, however prepared to find that some of the claimant's evidence was confused and contradictory and the claimant could not be regarded as a completely credible witness, particularly as to the impact of a condition or conditions on her day-to-day activities, especially where there was a dearth of supporting medical evidence.

Findings of fact

15. The tribunal approached each of the conditions relied upon by the claimant in turn.

The evidence in respect of the claimant's stress fracture

16. The claimant asserted the stress fracture was a disability that arose from a disability. Her case was that she used to frequently jog as a coping mechanism. The claimant's evidence was "*I ran more to reduce stress*" [tribunal emphasis]. The running was a coping mechanism to deal with stress, not the disputed conditions.

17. She sustained an injury in January 2023, after her employment had ended. The medical evidence (258) showed the claimant was diagnosed at the Medway NHS Foundation Trust with a stress fracture of her left femur on 28 March 2023.

18. The claimant said in her impact statement it would take her eight months to be able to return to running (203).

The evidence in respect of ADHD

19. A very short letter was placed before the tribunal (257) from Dr David Mellor, consultant psychiatrist dated 03 March 2023. It simply stated that he diagnosed the claimant as having ADHD following an evaluation undertaken on 12 May 2022. In other words, she had ADHD whilst employed by the respondent.

20. It is appropriate to record how the claimant put her case in respect of the effect of the impairment of her day-to-day activities.

21. The claimant stated in her impact statement that she "*occasionally misplaces*

items". She said so, she did not misplace things she carried round with her what she described as bum bag.

22. She said that *"forgetfulness is another issue"* and that she relied heavily on a paper diary. The claimant carried a notepad with her to jog her memory. If she did not carry the notepad, she would on occasions forget things, although the strategy did not work well as sometime, she could not read her own handwriting.

23. The claimant was asked what would happen if she didn't make a note. She said sometimes she might get confused as she had done in front of the tribunal. The tribunal saw no such confusion that was anyway different from the comprehension and understanding of any litigant in person.

24. In her impact statement the claimant said she had difficulties in trying to retain information (196). The claimant did not give clear and cogent evidence to the tribunal as to whether the retention of information was because of her dyslexia, her ADHD or a combination, and if a combination how significant was the ADHD.

25. A specific example she gave of the impact of ADHD on her day-to-day activities was as follows: – *"occasionally I make careless mistakes such as dropping a tiny Sim card while attempting to retrieve it from the dashboard of a car"*

26. She said that she faced difficulty *"listening to people when they speak from behind a desk with a screen in front of them"* and her coping strategy was to stand in front of them, face-to-face, to better engage in a conversation. It was not clear to the tribunal how the difficulty in listening to speech was related to the mental condition of ADHD and the claimant did not explain this in her evidence, on this point.

27. The claimant said as a result of her condition she felt she was *"constantly on the move"* and often *"hyperfocussed"* on tasks.

28. The claimant described herself as being *"talkative"* and would strike up conversations with just about anybody and sometimes over shared personal experiences. She believed this was a symptom of her ADHD. There was no cogent evidence to support such a conclusion. In the tribunal's judgement this could equally be a description of the claimant's personality.

29. She had a strong aversion to being late or underprepared, both of which she attributed to her ADHD. As a coping strategy she ensured she arrived early for

appointments and meetings.

30. One example the claimant gave of sometimes being overwhelmed by her ADHD was using GPS navigation in a car whilst taking a Bluetooth phone call, and driving. The tribunal found that a person without ADHD would find it difficult to undertake those three tasks at the same time, which required a high degree of concentration.

31. The claimant made reference to a condition she described as rejection sensory disorder (“RSD”) which she said made it difficult for her sometimes to decline additional tasks. The claimant accepted in cross examination she had no diagnosis for RSD. This was not a condition the claimant relied upon as a disability. She believed this condition went hand in hand with ADHD but did not produce any evidence to support that opinion. The fact that she gave that behavior a different label pointed away from it been a symptom of her ADHD.

32. The claimant had taken a conscious decision to abstain from alcohol and drugs as there was a family history of substance misuse which she considered was a symptom of ADHD although again there was no cogent evidence to support that conclusion. In any event many people without disability abstain from alcohol and drugs for a variety of reasons.

33. She considered that because of her ADHD she had strong sense of justice and was driven by that sense. In a letter dated 08 September 2023 (260) from a Ms. Amore, who described herself as a psychological well-being practitioner Ms. Amore stated the service in which she worked did not provide “*a formal diagnosis of any kind of mental health problem*” but went on to say, somewhat contradictorily “*one of the symptoms of ADHD that can create significant distress is justice sensitivity*”. The basis for that conclusion was not referenced.

34. Ms. Amore stated that the claimant had been attending psychological therapy since March 2023 due to depression, anxiety and stress symptoms that were made worse as a result of the ongoing tribunal proceedings. She did not say that any of the disabilities the claimant now relied upon resulted in the need for treatment.

35. The claimant said she was now taking medication for ADHD (after her employment ended). As noted, there was no medical evidence in support. The claimant but did not say what would happen if she did not take medication.

36. The claimant had no time off work due to ADHD.

The evidence in respect of endometriosis

37. There was no evidence from the claimant's GP as to the claimant's symptoms or treatment in respect of this physical impairment.

38. The claimant described her condition as variable and closely related to her periods. Sometimes there was no particular difficulty but at other times she could suffer from lower abdominal and pelvic discomfort, menstrual pain, excessive bleeding (although in the claimant's impact statement she linked that, to a different condition namely hormonal imbalance and a deterioration in her mental health), fatigue, bloating headaches and mood swings.

39. Fortunately, the symptoms were not such the claimant had to take time off work. She was able to run the family household, cook, go shopping and get the children ready for school and go to work and perform her duties.

40. The claimant also said she suffered from fibromyalgia, again a condition she did not rely upon as a disability. She did not indicate with any degree of clarity, save for heightened sensitivity to pain, tremors and mouth ulcers, to what extent, the symptoms she described were because of her fibromyalgia as opposed to endometriosis or ADHD, given that fibromyalgia can lead to pain, fatigue, confusion and difficulty in thinking clearly. The tribunal was left unclear whether the pain the claimant described was due to endometriosis or fibromyalgia, or to what extent the fibromyalgia affected any level of pain the claimant experienced with her endometriosis.

41. The claimant said she had undergone a surgical procedure in October 2022 to assess whether laser treatment was necessary for her endometriosis.

42. There was no medical evidence placed before the tribunal as to the result of the intervention, or what further treatment, if any, was required.

43. The claimant self-managed by lying on a settee when she returned from work. She sometimes discreetly wore heat pads on her body to ease discomfort. When the claimant was asked how she would present without the benefit of heat pads she said she would be less talkative.

Two grievance interviews

44. The claimant raised with the tribunal the contents of two interviews the respondent undertook with its employees as part of its investigation into the claimant's grievance, which she said, provided relevant evidence in respect of her disabilities on her normal day to day activities.

45. The tribunal indicated to the claimant that it was her impact statement, her answers to cross examination, and the medical evidence that was likely to carry the most weight. However because the claimant had specifically raised the matter the tribunal read, during an adjournment, and before it gave oral judgement, the notes of interview with Mr. Jack Orwell and Mr. John Edwards.

46. Mr Orwell in a note dated 10 November 2022 (235 to 241) indicated that he became aware of the claimant's dyslexia while she was working with him and he gave assistance in the use of a computer. Further details were not provided by him and nor were they in the impact statement

47. In Mr Edwards interview (242/250) he said *"she cries a lot I don't know if this is because of frustration, fear of losing her job, not getting her own way, a feeling of confusion or stress ..."*

48. The tribunal did not attach any significant weight to either of these two statements in its deliberations, despite the claimant's urging to the contrary, for the following reasons: –

- Neither expressly commented upon her disputed conditions.
- They were not called by either party to give evidence, so their account could not be tested.
- Any views they may have whether the claimant was or wasn't a disabled person was irrelevant; it was a matter for the tribunal exclusively to determine.
- Whilst the claimant's presentation at work might give an insight into how the claimant managed day-to-day activities it was insufficient to lead the tribunal to attribute that behavior to the disputed disabilities.
- Both witnesses had reason to exaggerate any difficulties they encountered with the claimant because they were seeking to justify why her probationary period was not extended.

Submissions

Introduction

49.Both parties relied on written and oral submissions

50.The tribunal means no disrespect to either party by not repeating those submissions in full. The fact the tribunal has not referred to each and every submission does not mean that it was not given due weight. It is also appropriate to record that both parties' written submissions made reference to other interlocutory matters. In view of the shortness of time the tribunal was not able to address all of those matters but those that it did, were dealt with by means of a separate case management order.

The claimant

51.The claimant made written submission (4 to11) which she amplified orally.

52.She made reference to statements made by two of the respondent's employees, Mr. John Edward and Mr. Jack Orwell in internal grievance proceedings that she had bought.

53.She submitted that her ADHD was not particularly evident because like many disabled people she masked her condition. The claimant contended that carrying a bum bag to store items so she didn't forget was not a normal day-to-day activity. Her strong desire for justice, she said, was a symptom of her ADHD.

54.Turning to endometriosis the claimant contended she had a surgical procedure whilst employed by the respondent and had told both Mr. Edwards and Ms. Morgan from HR that she had a medical appointment. She made no further submissions in respect of endometriosis

55.Finally, the claimant said she attributed the stress fracture to her efforts to manage her ADHD.

56.She did not refer the tribunal to any specific legal authorities.

Ms. Cullen.

57.Ms. Cullen referred to her written submission (12 to 18).

58. She raised issues as to credibility, which the tribunal had already noted.

59. Starting with the stress fracture, whilst she accepted it was a physical impairment, it did not arise at the material time, and in any event, there was no evidence it was long-term. It could not be a disability within the meaning of section 6 EQA 10

60. She accepted that ADHD was a mental impairment and that it had a long-term effect but denied it had a substantial adverse effect on normal day-to-day activities on the basis of the claimant's evidence. She made submissions in some detail on the claimant's evidence in this regard. She submitted it could not be said that, for example, the claimant describing herself as talkative was a matter that had more than a trivial impact on the claimant's normal day-to-day activities.

61. Finally in respect of endometriosis she accepted it had the potential to be a physical impairment. She made no admissions as to a long-term effect. She denied it had a substantial adverse effect on normal day-to-day activities on the basis of the claimant's evidence. The claimant's credibility was in question and there was inconsistency between when the GP said the claimant's condition occurred and the information on the NHS app and the claimant's own impact statement.

62. Ms. Cullen referred the tribunal to two authorities, the well-known cases of **Goodwin -v- The Patent Office [1999] IRLR 4** and **Cruickshank -v- VAW Motorcast Ltd [2002] ICR 729**

Discussion

The legal framework

63. Disability is defined in section 6 EQA10 in the following terms: –

“(1) A person (P) has a disability if-

(a) P has a physical or mental impairment, and

(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day to day activities.”

64. This definition is further clarified in schedule one, part one of the EQA 10.

65. In approaching its judgement, the tribunal had regard to “Guidance on Matters to Be Taken into Account in Determining Questions Relating to The Definition of Disability (2011)” (“the Guidance”).

66. The tribunal also had at the forefront of its mind the decision in **Goodwin -v- The Patent Office 1999 IRLR 4** throughout the application of the statutory test.

67. The burden of proof is the balance of probabilities and it is for the claimant to establish each element of the statutory definition.

68. The tribunal reminded itself the making its assessment, the assessment was made at the material time and not as at the date of today's hearing, **Cruikshank -v- VAW Motorcast Ltd [2002] IRLR 24**.

69. From the case law the tribunal derived the proposition that the word "*impairment*" should be given its ordinary meaning.

70. What constitutes a long-term effect was defined in schedule one part two of the EQA 10 in the following terms: –

"(1) The effect of impairment is long-term if –

(a) it has lasted for at least 12 months,

(b) it is likely to last for at least 12 months, or

(c) it is likely to last for the rest of the life of the person affected."

71. As the claimant must establish she was a disabled person at the time at which the alleged discrimination occurred the tribunal must ask whether the effect of the impairment or impairments had lasted 12 months by that date, or, if not, whether at that date it was likely that it would have last 12 months, see **Tesco Stores Ltd -v- Tennant [2020] IRLR 363**.

72. In looking at whether an impairment has a long-term effect the tribunal had to take into account the likelihood of re-occurrence and the likelihood of re-occurrence meant "*could well happen*", see **Boyle -v- SCA Packaging Ltd 2009 IRLR 746**. The likelihood of re-occurrence is the likelihood of the re-occurrence of the effect, and not of the impairment, see **Sullivan -v- Bury Street Capital Ltd [2020] IRLR 953**. The prediction at the likelihood of re-occurrence must be made on the basis of the evidence available at the time of the act complained of **Mc Dougall -v- Richmond Adult Community College [2008] EWCA Civ 4**

73. The phrase “*day-to-day activities*” is not defined in the EQA 10 but the tribunal adopted the definition found in the Guidance at paragraph D3 which reads as follows: –

“In general, day-to-day activities are things people do on a regular or daily basis, and examples include shopping, reading and writing, having a conversation or using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport, and taking part in social activities. Normal day-to-day activities can include general work-related activities, and study and education related activities, such as interacting with colleagues, following instructions, using a computer, driving, carrying out interviews, preparing documents, and keeping to a timetable or a pattern”

74. Normal day-to-day activities include activities both in a claimant’s private life and work activities, if they are common in different types of employment, **Chief Constable of Dumfries and Galloway Constabulary -v- Adams [2009] ICR 1034**

75. The fact a person can do the duties of their job does not necessarily mean that they are not disabled, see **Law Hospital NHS Trust -v- Rush [2001] ICR 1034**.

76. What constitutes a substantial adverse effect on normal day to day activities is something more than trivial.

77. The tribunal reminded itself that it had to discount the effect of medical treatment/ coping strategies when making such an assessment. The tribunal had to determine what the claimant could or could not do without medication/coping strategies. It was unlikely a mere assertion by the claimant of what would happen if medical treatment/coping strategies was discontinued would be sufficient. Normally some form of medical evidence was required, see **Woodrup -v- Southwark London Borough Council [2003] IRLR 111**.

78. The tribunal had to look at what the claimant could not do or can only do with difficulty and not what she could do, **Leonard -v- South Derbyshire Centre of Commerce [2001] IRLR 19**.

Conclusion

79. The tribunal has looked at matters having regard to its previous finding on credibility. It could not regard the claimant as a completely credible witness when

describing the effect of each condition on her normal day to day activities.

Stress Fracture.

80..Starting with the stress fracture it was not necessary to undertake the sequential exercise mentioned in **Goodwin** for the simple reason the claimant's injury did not occur until after her employment had ended. In the circumstances she cannot have been a disabled person at the material time, that is when the alleged discriminatory acts were committed. Even if the tribunal was wrong the claimant has not established it was long term.

ADHD

81.The tribunal accepted that ADHD was a mental impairment. However the fact a person may have been diagnosed with a particular impairment does not fully satisfy the statutory definition.

82.The tribunal further accepted that given ADHD was a lifetime condition it had a long-term effect.

83.The key issue was whether it had a substantial, that is did it have more than a trivial effect on the claimant's normal day-to-day activities?

84.The tribunal has already highlighted the claimant use the word "*occasionally*" relatively frequently in her impact statement. Of course the fact that a condition impacts upon day-to-day activities only occasionally is not determinative; what is determinative is the impact upon day-to-day activities when an occurrence occurs.

85.The vast majority of the examples given by the claimant were all relatively minor. None disabled people forget things, make lists, or don't like to be late for appointments so allow plenty of travel time.

86.Here the tribunal found on the claimant's own evidence that her condition did not have a substantial adverse impact on normal day-to-day activities. The examples she gave did not so justify a finding or, where she did give examples which might justify such a finding, it was not clear that it related to her ADHD. By way of illustration the tribunal has in mind the claimant's assertion that she to write things down in the diary or her apparent difficulty in understanding a person who spoke from behind a screen.

87. The tribunal is reinforced in this judgement by having regard to the Guidance. In the Guidance a non-exhaustive list of factors is given which may illustrate whether a disability has or has not a substantial adverse effect on normal day-to-day activities. The guidance itself emphasises it is not prescriptive or exhaustive. However, given the tribunal must have regard to the Guidance it provides an indication as to where the line falls as to whether a condition has or has not more than a trivial impact on normal day-to-day activities. The claimant fell below the threshold.

88. the tribunal has not forgotten the reference to medication for ADHD although this appears on the claimant's account to have been prescribed after the material time. However even if the tribunal is wrong on that point there is no medical evidence what the effect on the claimant's day to day activities would have been without such medication and such evidence is usually required, see **Woodrup**

Endometriosis

89. The tribunal was satisfied that this condition was a physical impairment.

90. The condition was episodic. She had some months with no difficulty and other with symptoms.

91. The claimant received no medication in respect of the condition. Whilst the claimant did refer in her impact statement to the condition having a significant impact on her mood, she gave no examples of how it impacted upon day-to-day activities. In fact, her impact statement gave virtually no examples of a substantial effect upon the claimant's day-to-day activities hence why the tribunal, having read it, asked the claimant if she had anything to add.

92. Some of the symptoms she attributed to other conditions (for example excessive bleeding) and with others it was not clear whether it was the endometriosis or the fibromyalgia that was responsible.

93. Even when the tribunal probed with the claimant to see what would happen if she did not adopt her coping strategies, for example if she did not use heat pads, her own evidence she did not establish that the effect was more than trivial.

94. The claimant had no days absence from work due to endometriosis.

The tribunal could not be satisfied the condition was long term given the claimant said she had a surgical procedure. Had that relieved the claimant of all symptoms or

not? The tribunal did not know. It could not determine if the condition was likely to reoccur.

95.Finally, whilst the tribunal thus found that both the ADHD and endometriosis were not individually disabilities (it has discountered the stress fracture for the reasons already given) within the meaning of section 6 EQA 10 it is then stood back and considered whether the two conditions taken together could surmount the statutory threshold. Having done so it was still not satisfied that threshold was surmounted.

96.For the above reasons therefore the claimant's assertion after the disputed disabilities must be dismissed.

Employment Judge T.R.Smith

Date 15 March 2024

Public access to employment tribunal decisions

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

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>