



EMPLOYMENT TRIBUNALS

Claimant: Mr M Lovett

Respondent: Master Butcher Epsom Limited

UPON APPLICATION made by the respondent by letter dated 16 May 2024 to reconsider the judgment dated 23 April 2024 under rule 71 of Schedule 1 of the Employment Tribunals Rules of Procedure 2013, and without a hearing,

JUDGMENT

The judgment dated 23 April 2024 and sent to the parties on 2 May 2024 is confirmed.

REASONS

1. The respondent in this case requested the Tribunal to reconsider its decision, made on 23 April 2024, that the claimant was, at the relevant time, a disabled person within the meaning of the Equality Act 2010.
2. The respondent submitted that the claimant's condition was not long-term, but a series of acute episodes, with elongated periods between, and that Employment Judge Rice-Birchall erred in her application of the law to the claimant's case.
3. However, the reconsideration application does not address the Tribunal's finding that the claimant's condition was a recurring condition. The Employment Judge found that the substantial adverse effect was likely to recur within the meaning of schedule 1, para 2 Equality Act 2010 (see paragraph 22 of the Judgment).
4. The application states that the Tribunal considered only whether a substantial adverse effect to carry out day to activities was likely to last 12 months (paragraph 4 of the reconsideration application), but that is not the case. The Tribunal did not find that the substantial adverse effect was likely to last twelve months but that there was a substantial adverse effect during depressive episodes and that those episodes were likely to recur.

5. The Tribunal has not treated the bouts of impairments as “one long continuous condition” as suggested in paragraph 5 of the reconsideration application, but rather has determined that the substantial adverse effect was likely to recur in circumstances where there are periods of time when the impairment ceases to have a substantial adverse effect (see para 22 of the Judgment, para (2) and paragraph 39 “...which has a substantial adverse effect during depressive episodes and those episodes are likely to recur.”).
6. The Tribunal relied on the claimant’s oral evidence as well as medical evidence in reaching its conclusions.

Employment Judge Rice-Birchall

21st August 2024

JUDGMENT SENT TO THE PARTIES ON

19th September 2024

FOR THE TRIBUNAL OFFICE

P Wing