



EMPLOYMENT TRIBUNALS

Claimant: Mrs A Archer

Respondent: Ministry of Defence

Heard at: Cambridge

On: 27,28,29 and 30
January, 3-6 February, and
11 March 2025.

Before: Employment Judge L Brown

REPRESENTATION:

Claimant: Mr Issacs, Counsel

Respondent: Mr Smith, Counsel

JUDGMENT

The Judgment of the Tribunal is as follows:

Preliminary Issue of Disability

1. At the relevant times the claimant was a disabled person as defined by section 6 Equality Act 2010 because of Light Sensitivity.

Direct discrimination

2. The complaints of direct disability discrimination are not well-founded and fail.

Harassment

3. The following complaints of harassment related to disability are well-founded and succeed:

- a. On 15th March 2023, Lee Barton subjecting the Claimant to a capability assessment;
 - b. On 10th May 2023, Lee Barton's insistence that a capability assessment was required;
 - c. On 15th May 2023, the Respondent's insistence that the Claimant needed a capability assessment;
4. The remaining complaints of harassment related to disability, either fall away as they amount to unfavourable treatment, or are not well-founded and are dismissed.

Unfavourable treatment because of something arising in consequence of disability

5. The following complaints of unfavourable treatment because of something arising in consequence of disability are well-founded and succeed:-
- a. Lee Barton telling the Claimant off so that it felt that she had been given a "verbal warning" on 10th March 2023 based on a purported complaint of Chris Player **[Issue 5.1.3]**;
 - b. On 10th March 2023 Lee Barton suggesting that the Claimant was disrupting the team **[Issue 5.1.4]**;
 - c. On 10th March 2023 Lee Barton intimating that the Claimant was not "capable of doing the job" **[Issue 5.1.5]**;
 - d. On 26th April 2023, Lee Barton failing to acknowledge or address the Claimant's disability or adjustments and providing negative feedback during her PAR **[Issue 5.1.14]**;
 - e. On 26th April 2023, Lee Barton using an example of the CIDP meeting (held after the end of the PAR report year period) to downgrade the Claimant's performance **[Issue 5.1.15]**;
 - f. On 11th May 2023, Lee Barton repeating many of the comments made at the previous PAR Meeting **[Issue 5.1.19]**;
 - g. On 11th May 2023, the implied threat by Lee Barton that the Claimant's PAR could have been worse/lower **[Issue 5.1.26]**;

- h. On 11th May 2023, Lee Barton complaining about the Claimant asking questions, that he expected the Claimant to be “getting on better,” that she should be “further along” and that “other people had a better grasp of the role; **[Issue 5.1.27]**
 - i. On 11th May 2023, Lee Barton’s refusal to engage with what adjustments could be made to support the Claimant and his comment that the existing adjustment passport was “written by [the Claimant] and wasn’t professional guidance.” **[Issue 5.1.22]**
 - j. On 11th May 2023, the contention by Lee Barton that the Claimant would be subject to some criticism of her behaviour (following a complaint) before there had been any investigation **[Issue 5.1.18];**
 - k. On 11th May 2023, Lee Barton coercion to get the Claimant to consent to an OH Capability Assessment by implying that the Claimant would not have further adjustments if she did not consent **[Issue 5.1.21];**
 - l. On 11th May 2023, Lee Barton’s criticisms of the Claimant regarding her performance when he said “*now don’t you see why I treated you as partially met.*’ **[Issue 5.1.24];**
6. The remaining complaints of unfavourable treatment because of something arising in consequence of disability are not well-founded and are dismissed.

Failure to make reasonable adjustments for disability

7. The following complaints of failure to make reasonable adjustments for disability are well-founded and succeed:
- a. A failure to make reasonable adjustments (EA: sections 20 and 21) to a provision criterion or practice of performance goals, such reasonable adjustments being amending the performance goals and providing additional time for the Claimant to achieve those performance goals.
 - b. A failure to make reasonable adjustments (EA: sections 20 and 21) to the physical feature of a workstation in relation to the Claimant’s light sensitivity by failing to arrange the Claimant’s workspace to avoid the glare of lights and by providing fitted light blocking workstation fittings.
 - c. A failure to make reasonable adjustments (EA: sections 20 and 21) - auxiliary aids by failing to provide the following:-

- (i) from 3rd January 2023 to 17th February 2023, assistive software specifically the ClaroRead Pro software;
- (ii) for the first three months of the Claimant's employment (i.e. January to April 2023) documents in larger fonts, Documents/AWS Guidance/Master Tracker within OpenDyslexic font;
- (iii) by the end of February 2023 a (power) laptop which could effectively operate ClaroRead Pro Software.
- (iv) E-Learning for training.
- (v) The provision of a Dictaphone to allow "oral" notes to be taken and recorded;
- (vi) The provision of special Glasses for light sensitivity;
- (vii) The provision of a light blocking desk/workstation fittings.

8. The remaining complaints of failure to make reasonable adjustments for disability are not well-founded and are dismissed.

Approved by:

Employment Judge L Brown

18 March 2025

Judgment sent to the parties on:

20 March 2025

For the Tribunal:

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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.

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