



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss C Graves

**Respondent:** Hilton Nursing Partners Ltd

**Heard at London South by video**

**On: 2 July 2025**

**Before:** Employment Judge Corrigan

## Appearances

For the claimant: Mr J Yamba, Regulated Foreign Lawyer  
For the respondent: Mr I Hurst, Solicitor

## JUDGMENT

1. The claimant had a disability for the purposes of the Equality Act at the relevant time by virtue of
  - 1.1. Migraines; and
  - 1.2. Depression.
2. I found each impairment met the test independent of the other.

## REASONS

*Provided at the respondent's oral request*

3. The relevant issues were in the list of issues as follows:
  - 3.1. Did the claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:
    - 3.1.1. Did they have a physical or mental impairment: migraines and anxiety and depression?

- 3.1.2. Did it have a substantial adverse effect on their ability to carry out day-to-day activities?
- 3.1.3. If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment?
- 3.1.4. Would the impairment have had a substantial adverse effect on their ability to carry out day-to-day activities without the treatment or other measures?
- 3.1.5. Were the effects of the impairment long-term? The Tribunal will decide:
  - 3.1.5.1. did they last at least 12 months, or were they likely to last at least 12 months?
  - 3.1.5.2. if not, were they likely to recur?

## Hearing

- 4. The claimant gave evidence and I considered both of her disability impact statements. There was also a 173 page bundle. Both sides made oral submissions. I had regard to the Guidance on the definition of disability.
- 5. I found the following facts:

## Facts

- 6. The claimant has suffered from migraines since sometime before August 2022 when she was diagnosed. She went to A & E on 10 August 2022 which led to the diagnosis. At the point of diagnosis they were likely to continue. The first alleged act of discrimination occurred on 27 July 2023.
- 7. I accept that at their worst (which is also when the claimant takes the prescribed medication Sumatriptan– which itself has unpleasant side effects) she cannot drive, work and carry out household tasks. The respondent says this occurred (at most) on 3 occasions during the time the claimant worked for them, given her absence record. The absence record shows she was still able to drive on 23 March 2023. I accept however that these worst episodes are not just limited to the 3 occasions the claimant says they caused her to be absent from work as her shifts are 4 days on and 4 days off and so there will be occasions when she was not due to work that she had an attack this severe.
- 8. I accept her evidence that there are also times when her migraines are present but are not so severe as to prevent her from driving or working. I accept that she “pushes through” to work in discomfort on those days (and uses paracetamol so the symptoms would be worse without that). I accept that this occurs with some regularity. I accept that the discomfort affects her ability to focus and her sleep, making tasks harder and impacting her routine. I accept that on those days she pushes through to work and when she gets home has to lie down in a dark room in silence to recover.
- 9. The respondent took issue with discrepancies between the GP letter at page 85 and the GP notes at pages 115-119. I note that the references to the A & E

visit, a review of the migraines in November 2023 and subsequent referrals for tests do not appear in the more detailed notes of contact with the GP. The only reference to migraines in the notes of contact was on 23 April 24 which records the claimant reporting migraine headaches since 2022 and that with them it was more difficult to do normal tasks. This note is referenced Migraine (review) whereas where the claimant has reported symptoms for the first time the notes state “(first)” after the symptom. This supports the GP letter and the fact that that was not the first report to the GP in relation to migraines. I cannot account for missing details but accept the medical evidence taken in its entirety supports what the claimant says about her migraines.

10. The claimant’s medical records about her mental health show these issues pre-date the first entry in April 2020. By then she already had a history of depression and anxiety and of trying different types of medication. She was prescribed fluoxetine in April 2020. She has been on varying doses of fluoxetine most of the time since then and has repeatedly seen or contacted her GP about depression. There was a brief period when the claimant tried to come off fluoxetine due to feeling better but she quickly went back on to them. She also came off them for a brief period when pregnant.
11. The claimant says the impact of the depression is that she has low confidence, difficulty with concentration and sleep/tiredness. It impacts her social interactions (preventing her from speaking to people), her routines and social activities. In oral evidence she said it affects everything in life and when she has low confidence she does not feel she can do anything. she does not really go out except to work and shopping. At times whilst shopping she can be distressed because she feels people are staring at her. She fights through it to get things done but if able to during a particular day she will sleep.
12. The medical record supports that the depression affects her concentration; that it affects her “life, relationship and work” ; hat she is “down”, angry and agitated without medication; and that it impacts her self esteem and mood. There is at least one reference to the claimant reporting thoughts of self- harm.

### **Relevant test**

13. The Equality Act 2010 says that a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Substantial is defined in s212 as being “more than minor or trivial”. The effect is long-term (defined in schedule 1 of the Equality Act 2010) if it has lasted for at least 12 months or is likely to do so. B1 of the Guidance states that “the requirement that an adverse effect should be substantial reflects the general understanding of disability going beyond the “normal” differences in ability which may exist between people.

### **Conclusions**

*Did the claimant have a physical or mental impairment: migraines and anxiety and depression?*

14. The respondent did not dispute this but I have found the migraines and depression were the requisite impairments.

*Did it have a substantial adverse effect on their ability to carry out day-to-day activities? If not, did the claimant have medical treatment, including medication, or take other measures to treat or correct the impairment? Would the impairment have had a substantial adverse effect on their ability to carry out day-to-day activities without the treatment or other measures?*

15. This was the focus of the respondent's dispute. The respondent continued to dispute that the claimant's impairments met the test of disability on the basis it argued there is no evidence that either impairment had the requisite impact on the claimant's ability to do everyday activities.
16. Having regard to the facts found above I accept that the claimant's mental health has, since before April 2020, imposed limitations on her everyday life beyond the usual differences between different people, particularly in respect of her motivation to go out and do things and her social interactions. I find these limitations are more than minor or trivial.
17. Similarly I find the impact of the migraines set out at paragraphs 7 and 8 above are a substantial adverse effect on the claimant's ability to carry out everyday activities.
18. I find each impairment separately meets the requisite test.

*Were the effects of the impairment long-term? The Tribunal will decide: did they last at least 12 months, or were they likely to last at least 12 months?*

19. The respondent did not really challenge that the effect of the conditions, if sufficiently serious, were long-term. I have found the effect of the depression on the everyday activities has persisted since April 2020. They had therefore lasted well over 12 months by the relevant period.
20. The first act of discrimination alleged is dated 27 July 2023. By that time the claimant had likely had the migraines for at least 12 months, their having started sometime before 10 August 2022. If they had not lasted 12 months by that date then I agreed with the claimant they were likely to. The 27 July 2023 was roughly 2 weeks short of 12 months from 10 August 2022. Given the migraines were a recurring and persistent problem they were likely to last at least 2 weeks longer on 27 July 2023 and indeed were likely to continue.

Employment Judge Corrigan  
Date: 02 July 2025

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