



EMPLOYMENT TRIBUNALS

Claimant: Mr J Hodson

Respondent: Hughes TV and Audio Limited

Before: EJ Henderson (sitting alone) **On:** 2 July 2025

Appearances:

Claimant; In Person

Respondent: Mr D Hobbs (Counsel)

JUDGMENT & REASONS (PRELIMINARY HEARING)

1. The claimant was not a disabled person within the meaning of section 6 of the Equality Act 2010 at the times relevant to his claims (namely 12-16 February 2024).
2. Accordingly, his claims for disability discrimination cannot continue and are dismissed. The respondent's applications for strike out /deposit orders did not need to be considered and no decision is made on those applications.
3. The reasons for this decision were given orally at the end of the Preliminary Hearing. The claimant requested the reasons in writing, and these are set out below.

REASONS

1. This was a preliminary hearing (PH) listed to determine Strike out and Deposit Order applications by the respondent and also to determine the question of whether the claimant was a disabled person within section 6 Equality Act 2010 at the times relevant to his claim (namely 12 to 16 February 2024).
2. The claimant accepted that his claim was for disability discrimination and that if he was unable to show that he was a disabled person, his claims could not continue. Given this acknowledgement it was agreed with the parties that the disability issue should be heard first and if the claimant could establish he was a disabled person, we could then go on to consider the Strike Out applications.

Conduct of the Hearing

3. The hearing was conducted as a video hearing. The parties had agreed a PH Bundle (262 pages). This bundle included the claimant's Impact Statement and other statements relied on by him beginning at pages 59; 113 and 194 and the claimant's medical evidence. The claimant had also submitted some other documents separately including a rebuttal to the respondent's written skeleton argument/submissions. Such documents were considered insofar as they were relevant to the issue of disability.
4. I explained the process of giving evidence to the Tribunal. The claimant adopted the three statements (listed above) on Oath and was cross-examined by Mr Hobbs and asked questions by me. He was allowed an opportunity for re-examination.
5. I checked with the claimant what reasonable adjustments he would need for the PH. The claimant said there were no specific adjustments other than regular breaks and that he may need some time to consider his answers if he was asked questions in quick succession. I told him that he should ask for time if he needed it and during the PH I offered the claimant regular breaks (some of which were taken).
6. The respondent provided written submissions (essentially on the Strike Out/Deposit Order applications). The submission on the disability issue was brief and no legal authorities were cited.
7. The parties concluded their submissions at 12.50pm and I returned to give my decision with oral reasons at 2.30pm.

The Issue and Findings of Fact

8. The claimant said he was familiar with the wording of the test under section 6 of the Equality Act.
9. This is that in determining whether a person has a disability the Tribunal must consider:
 - Whether the person has a physical or mental impairment;
 - Whether the impairment affects the person's ability to carry out normal day-to-day activities;
 - The effect on such activities must be 'substantial';
 - The effects must be 'long term'.
10. The medical condition relied on by the claimant for the purposes of the current claim was migraines. The claimant explained that he had been formally diagnosed with ADHD on 8 March 202, though he had originally raised his concern over mental health problems with may be associated with that condition in February 2022.
11. It was accepted that the claimant has suffered from migraines since he was a teenager. Therefore, I accept that there is a physical impairment.
12. The claimant's impact statements (especially original statement at p59) described the impact on his normal day to day activities. It was accepted

that as described, the effects were adverse and substantial. Mr Hobbs did not cross examine the claimant on the account of his symptoms.

13. However, I note that the original statement is couched in the present tense and did not give any indication of the timing of such attacks/symptoms, other than to say that the migraines have been ongoing since 2001. There was no reference to the impact on the claimant over the relevant period in or around February 2024.
14. I then need to consider whether the effects were long-term and whether the claimant had the disability as at 12-16 February 2024 when the alleged discriminatory acts occurred.
15. Mr Hobbs cross examined the claimant in detail about his GP records (pages 207-210). In summary, the claimant's evidence was that he had tried over several years to visit his GP for conventional treatment for his migraines, which did not work. He "self-medicated" using cannabis which did alleviate his symptoms/pain relief, and this led to long gaps in GP visits: 8 years from 2008-16 and then from 2016 – 2021.
16. I asked the claimant why he had returned to the GP after the long gaps if his "self-medication" of cannabis was alleviating his condition. He said that this was because of the "socio-economic" impact of his cannabis use. He had lost his driving licence because of this and had come under pressure to stop his catering course. He kept hoping that the GP may come up with a new prescription drug which may work, but this had not happened. The claimant accepted that the GP would not recommend or condone his cannabis use.
17. There were no further GP visits concerning his migraine after April 2022. There was letter dated 27 March 2025 (page 211) from the GP surgery produced at the claimant's request. This confirmed the claimant had been diagnosed with Migraines since 2001 and Migraine with Aura since 2008. He had trialled various prescription drugs, but these had little effect on managing his migraines. The letter noted that claimant now used cannabis regularly to manage his migraines, but it was noted that *"there is no record of this treatment (cannabis) being recommended or agreed by the medical professionals he has seen over the years for the treatment of his migraines)"*.
18. In April 2023 the claimant went to a private clinic, Sapphire (later Curaleaf) and obtained a private prescription for cannabis which he said lessened the frequency of the migraine attacks (to about 5 a year) and also reduced the severity of the attacks when they came. There were letters from this clinic relating to appointments in April, June and October 2023 and in March 2024.
19. The claimant was asked in cross examination when his last migraine attack had occurred before he commenced employment in February 2024. He said this had been over Christmas 2023/ early January 2024. This was a pressurised time and expenses over this period meant he could not afford to pay for the private prescription, so this affected his symptoms.

The claimant did not say that he was regularly experiencing attacks in the lead up to February 2024.

20. The claimant's evidence initially suggested that the December 2023 was not a serious attack. However, later when answering questions from me as to when he had last experienced a serious attack the claimant said this had been in Christmas 2024. When it was pointed out that this was after his dismissal and so was irrelevant, the claimant then said that he had attacks in both Christmas 2023 and 2024 and both were serious attacks with the symptoms as described in his impact statement. I note that this was not consistent with the answer he gave in cross-examination.
21. I did not find the claimant's evidence on this point to be credible, The claimant appeared to alter/exaggerate his evidence as regards the attack in December 2023, which would be in his self-interest. I also note that the claimant did not make any mention of having attacks or serious attacks in or around February 2024 in his oral or written evidence.

Conclusions

22. When considering the definition of disability under Schedule 1 of the EqA 2010 the word 'likely' occurs in different contexts:
- (a) whether an impairment is 'long term', ie if it is 'likely' to last for 12 months (Sch 1 para 2(1));
 - (b) whether an impairment is likely to recur under para 2(2) (Sch 1 para 2(2));
 - (c) when considering effects of treatment under para 6(1), where it is asked whether an impairment would be 'likely to have a substantial adverse effect' but for measures being taken to treat/correct it (Sch 1 para 5(1));
23. In the Guidance under the EqA 2010 on matters to be taken into account in determining questions relating to the definition of disability, paragraph C3 states: *"In this context, "likely", should be interpreted as meaning that it could well happen, rather than it is more probable than not that it will happen."*
24. If an impairment is being treated or corrected, the impairment is deemed to have the effect it is likely to have had without the measures in question. EqA 2010 Sch 1 para 5 says that an impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if measures are being taken to treat or correct it and, but for such measures, the impairment would be likely to have that effect. Para 5(2) indicates that 'measures' includes medical treatment and the use of a prosthesis or other aid.
25. Mr Hobbs said that no objective medical evidence had been produced to support the claimant's assertion that his use of cannabis alleviated his migraine condition. The claimant accepted he had not produced any such evidence as he had not been aware it was needed for today's hearing. He pointed out that Sapphire Clinics engaged medical professionals, and they

had prescribed cannabis for him so this should be regarded as proof of such medical evidence.

26. Reviewing the relevant letters from Sapphire (and then Curaleaf);

- The first letter concerning the appointment on 4 April 2023 (page 142) from Dr M Weatherall – this records the claimant's assessment that smoking cannabis helps his migraines (which are recorded as being "only a few per year"). There is no medical assessment of the effect of cannabis on the migraines.
- The second letter concerning the June 2023 appointment (page 144) is signed by Carl Holvey, there is no medical qualification cited and no reference to an assessment by the clinic that cannabis is proven to alleviate the claimant's condition
- The third letter concerning an appointment in October 2023 is signed Dr Hazlett. He notes a discussion with the claimant about terpenes and other drugs. He refers to medical cannabis as "an unlicensed medication". Again, there is no formal medical assessment that cannabis is a medically acknowledged treatment for migraines.

27. On that basis, I find that the claimant has not provided any objective medical evidence from which I can find that his cannabis use is a treatment or measure which alleviates the substantial adverse effect of his condition – other than his own observation of this effect. Given, the inconsistency of the claimant's evidence as regards the effect of not taking cannabis over the Christmas periods of 2023 and 2024 and my finding on his credibility, I am not able to rely on the claimant's oral evidence alone on this matter.

28. As such, I should not disregard the use of the cannabis as regards the effect of the condition. I have to consider the impact of the claimant's condition (as at February 2024) with the effect of his cannabis use.

29. As a result, I find that the claimant has not shown that his migraine condition had a substantial adverse effect on his day-to-day activities as at February 2024. He was controlling that condition with cannabis at that time, which control should not be disregarded.

30. I also note the claimant's own assessment of his migraine condition as at 12 February 2024 (page 162). He says that since being prescribed "medical cannabis" a year and a half before that date, he had not had any migraine attacks. There is no mention of the attack at Christmas 2023.

31. According, I find that the claimant has not shown (to the requisite standard of proof) that he was a disabled person as at February 2024. His disability discrimination claims cannot continue and are dismissed. Therefore, I did not need to consider the respondent's applications on strike out/deposit orders.

32. As the claimant was a litigant in person and as the decision is based on some technical points, I suggested that he may wish to take some legal advice. I also pointed out to him the Tribunal Rules on the reconsideration process and explained that a Tribunal decision could be appealed on the

basis that the law had been incorrectly applied. The respondent did raise some objection to my comments, but I noted that it was only fair to make the claimant aware of his options as he was unrepresented. I was certainly not recommending him to challenge my decision.

Approved by:

Employment Judge Henderson

7 July 2025

JUDGMENT SENT TO THE PARTIES
ON : 30 July 2025

FOR THE TRIBUNAL OFFICE

Notes

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.