



EMPLOYMENT TRIBUNALS

Claimant: Ms A Lapaz-Mendez

Respondent: Medivet Group Limited

Heard at: Watford (by CVP)

On: 19 May 2025

Before: Employment Judge Emery

REPRESENTATION:

Claimant: In person

Respondent: Mr M Sellwood (counsel)

PRELIMINARY HEARING IN PUBLIC JUDGMENT

The judgment of the Tribunal is as follows:

Disability

1. The claimant was a disabled person as defined by section 6 Equality Act 2010 because of depression, anxiety and stress from October 2022 to the date of her claim.
2. The complaints made by the claimant which date from October 2022 to the date of her claim can therefore proceed.

REASONS

3. Reasons were given at the hearing; written reasons were requested.
4. The claimant was asked questions by Mr Sellwood, the Tribunal asked questions, and both parties made submissions.

5. The claimant relies on medical records and a disability impact statement. evidence to argue she was disabled, as her claim and impact statement allege, from September 2022. There were two bundles, a hearing bundle of xxx pages and a supplemental bundle (SB) of 361 pages.
6. The respondent accepts the claimant is a disabled person from 11 April 2024, the date she was prescribed anti-depressant medication, after the date of her claim. It does not accept she was a disabled person before this date.
7. In her evidence after some clarification, the claimant accepted that the date her symptoms became a disability was, in her view, September/ October 2022.
8. The relevant medical records start on 28 February 2022. The medical records record:
 - a. 28 February 2022: C has “lack of concentration – does not finish sentences - ... normally happy but does have severe mood symptoms”
 - b. 7 March 2022: Headache ... C “felt going blind for one hour. ... Cannot read with it. Does not suffer migraines.... Lots of stress”.
 - c. 18 March 2022: C feels she has ADHD ... mainly an attention issue ... unfocussed, easily distracted, forgetful, not finishing things, gets distracted reading a book easily, lots of important projects but always waits until last minute to do things. Getting very distracted at work...”
 - d. 30 March 2022: symptoms suggestive of ADHD.
 - e. 24 July 2023: Stress at work, “Called in hysterics ... Is having periods where she is losing sight suddenly ... lasts for about 10 minutes ... feels that when she is getting stressed she is going blind, happening 3 x a week. Symptoms started before Xmas...”
 - f. 28 July 2023: [mental health] C is “very tearful ... vision loss on and off ... advised it is optic migraine ... stress from politics in her workplace and feels burned out”. Referred to talking therapy.
 - g. 3 August 2023: “Overwhelmed, tearful, stressed. ... Has been overworking ,, has had episodes of losing sight: deemed to be stress related”; On examination C “anxious, SOB, tearful, sense of panic, change in behaviour, attending to personal care less, intelligible speech, NR, V tone fearful, upset, overwhelmed, depressed mood, feels empty, hopeless drained. ... Notably overwhelmed, struggled to regulate her anxiety during rv; would like support through treatment.... wakes frequently during night, wakes with night sweats; reduced appetite; lost weight 5kg in 2 weeks... hyperventilating; difficult to understand through tears...”

C prescribed propranolol 10mg – repeat prescription thereafter

- h. 17 August 2023: C started medication “still having anxiety”
 - i. 12 September 2023: C “tearful ... issues at work ... sounded panicky on the phone/hyperventilating...”. Noted to be fighting back tears ... some shortness of breath. Anxious. Proceeded to cry, noticeably upset”. Reviewed for “acute anxiety “this is secondary to ongoing grievance and counter-grievance within workplace... struggling with psychological, physiological and behavioural symptoms. ongoing worries that she will lose her job. ... struggles to carry out helpful self-help behaviours due to impact of symptoms.
 - j. GP’s letter dated 20 September 2023: C has been “unwell since October 2022 when started to have episodes of visual loss. She deteriorated in July 2023 – and signed off – panic attacks and impacting on her ability to sleep. “She currently has significant symptoms”; she was seeing a mental health practitioner; she was taking propranolol and has been “very tearful and distressed with shortness of breath. In short significant anxiety symptoms secondary to stress...” (85).
 - k. 27 March 2024: C has been having “bad migraines. Has black-outs time to time...” Cannot focus for 10-15 minutes. Advised “as stress-related and long-term, to consider ... anti-depressants.”
 - l. 22 April 2024: prescribed anti-depressants
9. The claimant produced a detailed impact statement which addresses issues at work and the impact of this on her health. This does not comply with what the Tribunal Ordered, which was to detail the effect of her condition on day-to-day activities; she was not ordered to detail how her employment impacted on her. The claimant has therefore made it far harder for the Tribunal to assess the legal question on disability.
10. The claimant’s evidence at the hearing was that her symptoms of temporary blindness stated getting worse from October 2022 – they were described to her by her optician as “optical migraines”. The claimant accepted that there was a record of blurred vision in March 2022 (137) but not recorded thereafter until July 2023. She says that she visited Moorfields Eye Hospital and was told that the issue was not eyesight related, and was told to visit her optician, leading to the optical migraine's diagnosis. The claimant accepted that in November 2022 her focus was shoulder pain, which later necessitated an operation (132, SB190).

11. The claimant described her symptoms from October 2022 as follows: she was withdrawn socially, she had weight fluctuations, gastric problems and inability to pursue yoga, her sleep was disrupted “I had a fear of going to sleep”.
12. The claimant described worsening symptoms from February 2023, after her surgery. At this time says that she would collapse on the sofa when she got home, would not shower, she would not change her clothes, that her “self-care deteriorated markedly”. By approximately April 2023 she describes “massive amounts of anxiety and paranoia and fear. I felt I was being spied on...”. She says that she found it “very difficult” to trust even people she knew. She said that she would work until 1.00am and sleep in her campervan because “I cannot leave work...”. When she did leave, she describes “collapsing” when she got home. She stopped doing charity work.
13. The respondent’s case is that the records of July 2023 (“called in hysterics”) is evidence of a temporary acute episode and was because she found out she was being investigated by the respondent. The claimant described this as the “culmination” of ill-health, that this was the point “when I am unable to control it anymore”, that she lost her ability to cope, she was not functioning from this date. She said by this date she had been experiencing increasingly worse symptoms for over a year.
14. The claimant was prescribed propranolol in August 2023 and sertraline in April 2024. She described propranolol as “calming me down” that without it “I would be on the floor...”, describing symptoms without it as “massive heart palpitations”, bad migraines and that the medication stops her from retching, it also helped her sleep. Her evidence, which I accept, was that she was taking propranolol to alleviate some of her physical symptoms of anxiety.
15. The claimant accepts that from September 2023 she did not visit her GP with these issues; she did not accept that this meant her symptoms had lessened. She was receiving repeat prescriptions of propranolol, and this medication was assisting; she was also seeing a mental health counsellor.

Closing arguments

16. The respondent argues that from March 2022 the only symptoms are “blurred visions and migraines and lots of stress”. It says that there is not enough in the medical records prior to at least 24 July 2023 to suggest the claimant has a disability. It accepts that from July 2023 her symptoms got worse. It does not say the claimant is “untruthful” in her evidence, but that she “has difficulty discerning” when her symptoms started; that her “hindsight evidence” does not match with the medical records. Between October 2022 and July 2023 “little

happened, the evidence shows no substantial impact.” There is then a long gap between September 2023 and March 2024 – the “issue arises again in March 2024.

17. The respondent’s case is that “there is no disability until late July 2023; it is only by 11 April 2024 it becomes long-term “as no GP would prescribe anti-depressants if it is going away completely.”
18. The claimant argues that she was unwell from September 2022; that just because she did not visit the GP for periods does not mean that she was unwell. She refers to documents which show she was visibly stressed at work, that her behaviour at work was erratic, she had “no problems for 15 years” and then she is sending messages late at night, she was a “completely different person”.

The law

19. Equality Act 2010:

Section 6

(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.

Section 212

(1) “substantial” means more than minor or trivial

SCHEDULE 1

2(1) The effect of an 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 ...

2(2) If an impairment ceases to have a substantial adverse effect on a person’s ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

5(1) 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 –

- (a) measures are being taken to treat or correct it, and
- (b) but for that, it would be likely to have that effect.

20. Case law

- a. All Answers Limited v W 2021 – EWCA 606 para 26: “The question, therefore, is whether, as at the time of the alleged discriminatory acts, the effect of an impairment is likely to last at least 12 months. That is to be assessed by reference to the facts and circumstances existing at the date of the alleged discriminatory acts. A tribunal is making an assessment, or prediction, as at the date of the alleged discrimination, as to whether the effect of an impairment was likely to last at least 12 months from that date. The tribunal is not entitled to have regard to events occurring after the date of the alleged discrimination to determine whether the effect did (or did not) last for 12 months.
- b. SCA Packaging Ltd v Boyle [2009] ICR 1056 HL: Whether an impairment is ‘likely’ to last for at least 12 months, - the definition is whether it “could well happen” that it is likely to last 12 months.
- c. Nissa v Waverley Education Foundation Ltd & Anor [2019] UKEAT/0135/18/DA: “could well” last for 12 months the tribunal must consider “whether at any point or points within the period on the evidence then available, it could be said that the effects of the impairment or impairments were likely to last more than 12 months”
- d. Paragraph C4 Guidance: in assessing the likelihood of an effect lasting for 12 months, “account should be taken of the circumstances at the time the alleged discrimination took place. Anything which occurs after that time will not be relevant in assessing this likelihood”.
- e. Parnaby v Leicester City Council UK EAT/0025/19: The tribunal must consider whether “it could well happen” that the effect of the condition would last at least 12 months, at the time of the relevant acts of alleged discrimination and must not take into account anything only known or occurring after that time.
- f. Tesco Stores Ltd v Tennant [2020] IRLR 363: The fact that with hindsight the impairment lasted for more than 12 months is irrelevant when assessing the position at the material time.

Conclusions on the evidence at the law

- 21. The claimant alleges continuing discrimination starting in Summer 2022 (claim paragraph 2.16) running to the date of claim in April 2024. She claims she was disabled from September/October 2022.

22. The claimant has shown that she suffered from stress and anxiety which started around March 2022. The evidence shows that from March 2022 she was becoming distracted and forgetful; she was suffering from severe migraines which affected her sight, she was stressed at work.
23. There is little evidence that at this time these symptoms were having a substantial impact – more than minor or trivial – on her day-to-day activities, and the claimant does not claim to be disabled from this date.
24. I accept that the claimant did not visit her GP between March 2022 and July 2023 with these symptoms. The first question is whether there is any evidence that the claimant had a condition which had a substantial impact on her in this period.
25. I accept that by July 2023 the claimant's symptoms were such that they were having a substantial effect on her day-to-day activities. Her GP records her being overwhelmed, panicking, not attending to personal welfare, depressed, struggling to regulate her anxiety, had lost 5kg in a very short period of time. Her impact statement records her “challenges” to manage her work and personal life, a constant feeling of paranoia, she found it difficult to interact with people. Suffering from insomnia and that she found it “difficult to function”. Medical records record similar symptoms to March 2024. I accept that medical evidence plus the claimant's evidence. In her impact statement and oral evidence shows a substantial impact on day-to-day activities during this period.
26. The more contentious period is from September/October 2022 to July 2023. The respondent says that the symptoms became acute in July 2023, caused by a disciplinary process starting at this time; prior to this date there is no evidence of substantial impact. The claimant calls this the “culmination” of a long period of ill health.
27. In concluding that the claimant had significant medical symptoms from October 2022, I accept that her symptoms described in July 2023 did not start on this date. I accept that symptoms of stress and anxiety started in March 2022 when she first visited her GP. She subsequently received advice from Moorfield's Eye Hospital and her opticians that her symptoms at this time were stress related. From March 2022 onwards I accept her symptoms became steadily worse.
28. I accept that the claimant's involvement in a car accident in September 2022 caused her significant shoulder pain, necessitating time off work and an operation. The shoulder injury is not claimed as a disability in her claim; however, I accept that from September 2022 there was an interrelationship between the pain she was suffering and increasing mental health symptoms. I

accept that episodes of intermittent blindness increased at this time such that it impacted on her ability to work.

29. I accept that from October 2023 the claimant had difficulties sleeping and concentrating and was not coping with her work to such an extent that she asked for a valuation of the practice so that she could sell her share. I accept that from this date she was not coping with day-to-day activities because of her symptoms of anxiety and stress. It was then that she started experiencing the effect on her day to day activities as she described it to her GP in July 2023 – that from October 2022 she found it difficult to function at work and in her personal life, such that she was struggling with sleep, she was not washing, changing clothes, she was experiencing intermittent blindness caused by stress-related migraines, she found it difficult to interact with colleagues and friends because of the paranoia she was experiencing and she withdrew from social activities from this date. She was experiencing panic attacks; that chronic fatigue and feeling overwhelmed meant it was difficult for her to perform “simple tasks” at home and work.
30. The medical records support this conclusion. While the medical report of 20 September 2023 would have been based in part on the claimant’s recollection, the report accepts that her symptoms became worse in October 2022. She went to Moorfield’s Eye Hospital at this time because of the severity of her stress-related migraines.
31. The evidence therefore shows that the claimant’s condition had a substantial impact on her ability to undertake day to day activities from October 2022 to the date of claim in March 2024. The evidence shows that this was a long-term condition, as she had this condition for over a year during the period of the relevant acts of alleged discrimination. It follows also that the claimant cannot argue that she had a disability in respect of any alleged acts of discrimination which occurred prior to October 2022, and these claims cannot proceed.

Approved by:
Employment Judge Emery
6 August 2025

Judgment sent to the parties on:
8 August 2025

For the Tribunal:

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