



EMPLOYMENT TRIBUNALS

Claimant: Miss M Kalina

Respondents: Digitas LBI Limited

Heard at: London South (in public)

On: 2,3,4 July 2025

Before: Employment Judge D Wright

Appearances

For the claimant: In person

For the respondent: Mr D Green, Counsel

JUDGMENT

1. The Claimant's claim of direct sex discrimination contrary to section 13 Equality Act 2010 is dismissed upon being withdrawn.
2. The Claimant's claim of direct race discrimination contrary to section 13 Equality Act 2010 is not well founded and is dismissed.
3. The Claimant's claim of direct disability discrimination contrary to section 13 Equality Act 2010 is not well founded and is dismissed.
4. The Claimant's claim of disability arising from discrimination contrary to section 15 Equality Act 2020 is not well founded and is dismissed.

REASONS

5. The above judgment was made on 4 July 2025. The claimant requested written reasons and these follow below.
6. The claimant applied for a role with the respondent which would have had her working for Client A. She made the final two candidates but was ultimately unsuccessful. She was then invited to interview for a role working with Client B. In this interview she disclosed that she had been crying just before the interview and that she was struggling with mental ill-health at the time. She was not successful in this role either.

7. The claimant brought a number of claims against the respondent in relation to their failure to employ her. These claims were:
 - 7.1 Direct race discrimination;
 - 7.2 Direct disability discrimination;
 - 7.3 Discrimination arising from disability; and
 - 7.4 Direct sex discrimination
8. Upon receipt of disclosure, the claimant withdrew her claim for direct sex discrimination and I therefore dismissed it accordingly.
9. Prior the hearing, the parties reduced the list of issues in terms of the acts of discrimination which were relied upon. I am grateful to the parties for that approach.
10. The claimant represented herself in these proceedings, whilst the respondent was represented by Mr Green of counsel. During the hearing there was mention about the disparity in legal representation. It is a sad fact that in this Tribunal it is common for a respondent to be represented by lawyers and for the claimant to appear in person, but I remind myself that the Tribunal was set up with the intention of being accessible to lay people and there is no requirement to hold a particular qualification in order to appear before me.
11. Often, when one side is unrepresented, it is necessary for the judge to step in and assist more often than one both sides have lawyers. In this case I found myself having to step in more than usual in order to help the claimant phrase her questions in such a way to get the answer that she was clearly seeking. At all times I would give her the chance to follow up in case I had not understood her point. It is often a fine line between assisting a claimant to get the best evidence out of a witness and stepping into the arena but I am satisfied that my assistance to the claimant was not overstepping the mark and placing the respondent at an unfair disadvantage.
12. The claimant gave evidence. On the respondent's side I heard from Stephanie Hill, Hanna Essinger, Luke Aris, Jessica Priest, and Sam Hardie.
13. Whilst I ultimately have to resolve disputes by preferring one person's evidence over another's, I find that no-one attended the hearing with the intention of deliberately misleading the Tribunal.
14. There was some quite strident criticism of the claimant in Mr Green's submissions. It was suggested, in so many words, by the claimant that his submissions pushed the ethical boundaries, but I find that they did not cross those boundaries as he was putting forward an arguable case.
15. The criticism levelled at the claimant was that I should be extremely cautious about accepting her evidence as she was an admitted liar. It is true that in cross examination the claimant admitted that she had lied on her CV, claiming to Prince2 certification when she had not taken the examination and had not completed all the necessary training. It was also suggested that she lied about her job title on the CV. I do not accept she lied about her job title, the way she

described her role may not have been the exact term used by her employer but it appears to have been a valid way to describe the work she did.

16. I remind myself that the admitted lie (about the qualification) was made during the process of applying for work with the respondent and not in the Tribunal proceedings. In these proceedings the claimant was candid about this lie, and in relation to the job title admitted that she had tweaked it because she just used a generic CV for all of her applications rather than tailoring it to individual roles. I also remind myself, as the appeal courts constantly remind first instance judges, that the fact a person has lied on one issue does not mean that we should treat them as having lied on everything. I must take a holistic approach when assessing credibility.
17. I do find that at times the claimant's evidence seemed to be tailored somewhat to the point in issue, and perhaps more emphasis was given to points than was fair, but that does not automatically equal dishonesty. For instance, when discussing the impact of her disability on her sleep the claimant took the view that Mr Green was trying to trap her into admitted that she would not have been able to do the work properly. Her answers to these questions, I find, downplayed the impact of her disability and I must therefore be cautious in terms of assessing her evidence because there may be some unconscious deviation from the exact facts.
18. But similar criticism could, in many ways, be levelled at Mr Aris. It was argued by Mr Green that the claimant came across as arrogant, but I find that Mr Aris was also a very arrogant witness who came across as someone who did not like to be questioned. There were times that he refused to accept simple points, such as how the Teams messages could be interpreted. However, I remind myself that I must be careful not to let someone's attitude poison my assessment of their evidence. Arrogance does not equate to dishonesty. There are a number of reasons why a witness may come across as arrogant or aggressive whilst being cross-examined. These could include feeling uncomfortable in the unfamiliar setting of a Tribunal hearing room, cultural differences due to nationality, age, profession etc. Mental ill-health and stress could also impact the way a person presents themselves and so I remind myself to be cautious here.
19. I did have to have words with the claimant during her cross-examination of Mr Aris because her passion for this case did cross the line into rudeness. It is to her credit that she took my comments on board and toned down her attitude, which led to a more productive cross-examination.

Disability

20. The claimant says that her disabilities are severe anxiety and depression. The respondent accepts that these amount to mental impairments for the purposes of the Equality Act 2010. Mr Green also conceded that the impairments lasted more than 12 months and were therefore long-term. The only part of the test that was in dispute was whether the impairments had a substantial adverse impact on her normal day to day activities.

21. As referenced above, I found that the appellant was less than ideal in her oral evidence in relation to her disabilities and the impact on her life. At times it flew in the face of her written evidence.
22. For instance, in her disability impact statement, the claimant refers to isolation and avoidance of social interaction. She said "*I tend to close off from people, especially those I don't know well. This has impacted my ability to build personal and professional relationships*". In cross examination, perhaps mindful of the traps she thought Mr. Green was trying to lay for her, the claimant said that the references to professional relationships here was in relation to not being able to drink alcohol because of her condition, and that therefore she didn't go out to socialize with people.
23. I find that that element on its own is quite plausible, in that with the mental health problems the claimant faces, she struggles to go out to socialise with colleagues. I take judicial notice of how depression can impact people, and that is a perfectly plausible account. But I do also find that Mr. Green's suggestion that this went beyond just mere socializing after work with colleagues is probably correct as well, and I find that what the claimant meant in this disability impact statement was that her condition did impact on her ability to build professional relationships more generally.
24. I also find that the claimant's assertion that she struggled to build and maintain personal relationships is also credible, and this ties in with her medical records.
25. In her impact statement, the claimant also refers to severe low mood and hopelessness. She said "*On bad days, I struggle to get out of bed, my motivation is non-existent, and I feel as though the future holds no prospects.*" In cross examination, she accepted that at the relevant time she wasn't really struggling to get out of bed. She was getting to work and that probably would have continued if she'd got the job. But when I look through the medical records, there are regular references to her struggling to get out of bed at other times. In evidence, the claimant particularly referred to lockdown and the impact of that on her health. As such, I find that this was certainly a substantial impact on her day-to-day activity, of getting up in the morning in the past. On balance, from the medical records, I find that this impact was likely to recur in the future.
26. In terms of the disrupted sleep the claimant said in her statement '*I experience insomnia, frequently waking up throughout the night, leaving me exhausted the next day.*' In cross-examination she indicated that this did not impact her abilities at work. Even if tired she was able to function at work. When pressed to give a broad-brush figure as to how often her sleep was disturbed, she gave a suggestion of 40% of nights being affected and that the frequent waking up meant she had a total of five to six hours sleep a night. Whilst this did not, it appears, impact on her work, I find that getting regular sleep is a normal day to day activity and this was substantially impacted by her conditions.
27. The claimant also relied upon her appetite and energy fluctuations. She told me that she would regularly overeat as a coping mechanism, but in severe episodes she would do a 180 degree turn and stop eating altogether. I find that this is consistent with people suffering from depression. I also find that managing a

healthy diet is a normal day to day activity and the claimant's conditions substantially impacted her here.

28. Whilst Mr Green was right to raise concerns about some of the inconsistencies in the oral and written evidence, where there is a discrepancy, I prefer the written evidence which is better supported by the medical records. Many of these records were created before the claimant even applied for the job and therefore were created with no expectation of pending legal action. So, whilst I am cautious that most records about mental health rely on self-reporting, in this instance there is nothing to suggest that the claimant would have been lying or exaggerating her condition prior to the events leading up to this claim.
29. When I weigh everything up in the balance, I find that the claimant was disabled as her mental ill-health had a substantial impact on her day-to-day activities.

Direct Race Discrimination

30. Following the narrowing down of the issues, the sole allegation of direct race discrimination was that the respondent did not offer the claimant a job working with client A following the interviews in November and December. She was informed that she had been unsuccessful in December.
31. The claimant identifies as being of Russian nationality. Whilst she is also a naturalised British citizen her heritage is Russian, she was born in Russia and lived her formative years there.
32. The claimant compares herself to Laura Lopez, the other final round candidate for the role who was successful in the competition. Initially in these proceedings the respondent described Ms Lopez as Colombian. However, after being questioned more on this point by the claimant they conceded that she is also a dual national, holding British and Columbian citizenship. The claimant says that a key difference here is that Ms Lopez held both of those nationalities from birth, and was not naturalised as a British citizen. She was born and educated in the United Kingdom, although she identifies as Columbian. This self-identification point appears to be where the initial misinformation arose. I am satisfied that the respondent was not trying to hide Ms Lopez's true nationality, it was more a case of incomplete record keeping in relation to their staff's nationality.
33. I heard from Ms Hill in relation to the Client A recruitment process and on the whole, I find she gave good evidence. There was one point which concerned me though. The claimant asked Ms Hill if she was aware that the claimant was "foreign", to which she said she was not aware, and pointed to the claimant's CV which only lists her British nationality (and I make no criticism of the claimant for that). Ms Hill was then asked if she noticed the claimant's accent, to which she said that she had not noticed it. I find that part hard to believe, the claimant has a pronounced accent that, at the very least, indicates that she has spent a number of years outside the United Kingdom. I find that Ms Hill would have noticed the accent, although I am not satisfied that this would have automatically told her that the claimant was not British from birth.
34. Other than that point, Ms Hill a clear explanation in her evidence of the recruitment process. At times she accepted things which were not necessarily in

her favour. She accepted that she “vibed” more with Ms Lopez and that this ultimately played a part in her decision-making process. She was at pains to repeatedly point out that the claimant was an appointable candidate, and that ultimately the decision came down to who was the better fit in the team.

35. At one point Ms Hill said that the decision came down to “how Ms Lopez came across on the day”. She highlighted Ms Lopez’s enthusiasm and excitement for the role. When I looked at her answers in the round, I find that the question of how Ms Lopez came across on the day included not only her character but the answers she gave to questions in the interview.
36. These were competency-based interviews, which is a style of interview that does have its critics. It is often argued that they indirectly discriminate against younger candidates and/or those with neurodivergent conditions. But there is nothing inherently wrong with that style of interview, and there was nothing put forward in this case to suggest that adjustments should have been made. Therefore, whilst it may not be the format of interview that I would choose, it was one open to the respondent. A potential employer has a wide discretion on how they conduct interviews and what factors they place the greatest weight on. If that means that they don’t necessarily get the objectively best candidate for the role, then that does not automatically suggest that they are discriminating against candidates.
37. It is clear that the claimant is very much of the view that she was by far the better candidate on paper. I confess, that as an outsider to this industry, looking at the two CVs it would appear to me that the claimant perhaps had a little more relevant experience in this type of work than Ms Lopez. However, I also have experience of being a hiring manager, and I am well aware that someone may come across better on paper than in the interview and vice versa.
38. Having reviewed all the correspondence in the bundle I find that both candidates came out of the application and interview process well. Both candidates had feedback which was positive, albeit in different ways. The claimant points out that her feedback was related to technical abilities and experience, whilst Ms Lopez’s feedback, she says, was emotive and about her personal attributes.
39. I find that this description of the feedback relating to Ms Lopez is a little bit unfair. There are internal emails which show they clearly checked her technical skills and experience. However, I do accept that the emails are much more emotive in relation to Ms Lopez. Comments are used such as “she is a better fit” and “we vibe well”. To her credit, Ms Hill did not seek to distance herself from that.
40. At this point I remind myself of the shifting burden of proof. Initially I need to determine if there are facts from which I could, in the absence of any other explanation, determine that there was discrimination. At that point the burden would shift to the respondent to prove that there was no discrimination. Mr Green suggested that the initial burden is on the claimant, but in fact this is a neutral burden (albeit from a practical perspective it is usually the claimant providing the evidence). I also remind myself that the higher courts have repeatedly emphasized that this Tribunal should not get bogged down with a rigid approach to the shifting burden. It is often acceptable to look at things in the

round and decided that even if the burden were to shift, then the respondent has provided sufficient evidence.

41. I was referred by the claimant in her submissions to a number of cases which say that it is unusual for discrimination in the recruitment process to be explicit and that therefore it is necessary to determine if I can infer anything from the evidence. I accept that premise.
42. The claimant also referred to case law where the courts and tribunals have raised their concerns around employers using the metric of fit and/or cultural matching when determining who to give a job to. I accept that a degree of caution needs to be used here, but remind myself that there is nothing that explicitly prevents such an assessment. There may be times when it is perfectly lawful for an employer to decide that somebody just will not be a fit with the team and that therefore it would be difficult to work together. An example of this could be a small company where everybody who works in the office is an ardent support of Arsenal Football Club, and they decide to pick an Arsenal fan at interview over a similarly qualified Tottenham Hotspur season ticket holder because they do not want to damage the harmony of the office.
43. The decision there would be lawful (albeit taking the example to the extreme would not necessarily be good for business).
44. In the present case we have two candidates who were both considered appointable. They were pretty evenly matched, with their own particular strengths. In that situation I see nothing wrong with looking at who would fit into the team better as long as the assessment is done with caution.
45. In this case, the claimant relies upon a stereotype of British people being outgoing, enjoying going to the pub, and being relaxed swearing whereas she is more restrained as she comes from a cultural background where going to the pub is not a big thing and swearing is frowned upon.
46. The problem that the claimant has is that she has not provided evidence of this stereotype of a British employee. As Mr Green pointed out, there are times when a stereotype is so well known that the Tribunal can accept it exists without further evidence, but if not then the burden is on the claimant to prove it exists.
47. I find that there is no stereotype of British workers being as the claimant describes. I accept that a number of British people could be described as going to the pub, swearing liberally and being outgoing. But there are just as many British people who frown upon anything which could be considered a curse word, who eschew the pub culture and who are far from outgoing and instead have the British "stiff upper lip". As such, in the absence of evidence, I am not satisfied that this stereotype of British people exists because at best, it would apply to a sub-group of British people. The claimant described it as an "unspoken template of Britishness" but I reject that.
48. I would be prepared to accept that there is a stereotype of people who work in marketing of being loud, swearing and having a drinking culture, but that does not assist the claimant in her race discrimination claim.

49. When I look at the evidence in the round I am not satisfied that the burden has shifted, but even if it had shifted, I find that the respondent was not discriminating on grounds of race in selecting Ms Lopez for the role over the claimant. They were entitled to choose between two good candidates on the basis of who would fit in with the team.
50. I therefore dismiss the direct race discrimination claim.

Direct Disability Discrimination

51. The allegations here are that the respondent failed to offer the claimant a job working with Client B and that they failed to give her the outcome of the interview. The claimant relies on a Teams conversation where it is clear that her depression played a role in the decision-making process
52. I find that the evidence shows that the decision not to hire her was linked to her ability to handle a stressful project. I find that this was not because she had depression, but rather was in relation to her ability to handle stress which is something arising from her depression. As such the direct disability discrimination claim on the first complaint.
53. In relation to the second complaint, that of not being given the outcome of the interview I heard from Mr Hardie. I accept his evidence in full. He says that after the second interview he spoke to the claimant and told her that she would not be progressing further in the competition for Role B. I also accept the claimant's evidence that she did not get that understanding from the conversation.
54. It is entirely possible for those accounts to both be true. I find that Mr Hardie though he'd explained it (albeit in a manner whereby he was trying to soften the blow just before Christmas) but due to a breakdown in communication, the claimant got a different impression from the conversation.
55. Could Mr Hardie have been clearer? I find that he could have been, and I get the impression he accepts that himself. The explanation given to the claimant at this point was not perhaps entirely truthful, but he says the reasoning given was done so in order to let her down gently. Whilst not ideal I find that there is no evidence whatsoever to link this to her disability and therefore the burden does not shift. Even if it had shifted then I find that the premise is wrong as feedback was given, albeit not entirely accurate, and the respondent has shown me that any flaws in this process were done out of an attempt to be kind rather than to punish her for a disability.
56. Therefore, I dismiss the direct disability discrimination claim in full.

Discrimination Arising from Disability

57. Before submissions I indicated to the parties that this element of the claim was where I had the most concerns.
58. The claimant relies on the same two allegations, namely not getting the job with Client B, and not receiving feedback.

59. In relation to the second complaint, not receiving feedback, I dismiss this for the same reasons as above. I find that it was in no way related to her disability.
60. On the question of why the claimant was not appointed, I heard from Miss Essinger and Mr Aris. They were the people who interviewed the claimant. I have indicated above that Mr Aris was not the best witness and if I were simply relying on his evidence then the respondent would be in a lot of trouble on this point. But I have to assess his evidence in the round, alongside other evidence.
61. It is common ground that at the outset of the interview the claimant explained that she has depression and that she was going through a particularly tough patch. She explained that she had been crying just before the interview and that she wanted them to know why her face was red and puffy. I find that this is an acceptable and understandable approach to take. It is also one which shows maturity and honesty.
62. It is also common ground that after making this disclosure at the start of the interview she was thanked for her honesty and the interview continued. At some later point in the interview there was a question asked about how the claimant would deal with stress in the role. That the question was asked is not in dispute. The manner in which it was asked is disputed.
63. The claimant says that the question was phrased along the lines of "in light of what you've told us, how would you be able to cope?". Miss Essinger and Mr Aris both say that this was just a standard question and was not tied in at all to the disclosure.
64. I find that this was indeed a standard question that was asked of everybody. This is because I accept the evidence of the Mr Aris and Miss Essinger that client B was a particularly difficult client.
65. However, I also take judicial notice that if you are asking a question in an interview that may be linked to an answer already given, it is human nature to link back to the previous answer. Therefore, on balance, I find that when the question was asked, it was probably linked to the claimant's disclosure of her depression and was phrased along the lines described by the claimant.
66. However, I do not find that this was necessarily inappropriate. It was a standard question, being asked in a normal conversational manner.
67. The answer the claimant gave to this question was "well it would take my mind off things" or words to that extent. The claimant accepted this when she was being cross-examined and did not challenge any of the respondent's witnesses on this point. Nor did she challenge it in submissions. After I gave my oral decision, she did seek to argue that this was not the entirety of her answer on this point but I am bound to make my decision on the evidence before me. There were a number of opportunities for her to take issue with this assertion but she did not. Therefore, on balance, I find that this was the entirety of her answer to the question on how she would deal with a stressful client.
68. In submissions the claimant did give examples of how she had previously handled stress at work notwithstanding the problems she was facing in her

personal life, but as I set out above, she did not argue at that point that she referred to these examples in her interview. Had she given those excellent examples in the interview then I am very much of the view that the recruitment process would have taken a different route.

69. In her submissions the claimant argued that she gave these examples to the respondent in her interview for a role with Client A and that they should have been taken into account by the different people interviewing her for Role B. This does, I find, damage her post judgment argument that she gave those answers in the interview for Role B. If she gave the answers then, why would she criticise the respondent for not sharing the interview notes internally?
70. In any event, if she did give those answers in the interview for Role A I find nothing in the correspondence or oral evidence to suggest that she had been told that the interviewers for Role B (who had not been involved in recruitment for Role A) would be provided with all her answers. Unless you are explicitly told that you do not need to repeat information from an interview for a different job then it is incumbent upon the candidate to answer questions in full. This was not, I find, an unfair practice, and the failure to take her answers for a different role into account does not assist her discrimination claim.
71. I find that it was open to the respondent to go off the claimant's answers in this interview alone. This is where we start to get divergence in the evidence between Miss Essinger and Mr Aris. Mr Aris' evidence is that his decision was based on the claimant's experience and technical abilities and that her stress and ability to cope with that client was secondary at best. Miss Essinger, in contrast, accepted that the claimant's answer to that question was not satisfactory and was an important factor. She also accepted that the claimant's general presentation during the interview was a key factor and that her presentation could be linked to her disability.
72. Overall, I prefer Miss Essinger's evidence on this point and that the primary reason that the claimant was rejected for the role was how she said she would deal with stress. I found Mr Aris was not credible on this point, particularly when I consider the Teams messages on page 122 of the bundle which are the only contemporaneous record we have of why the claimant was not given the job.
73. Within this discussion Mr Aris tells Mr Cervantes, that both he and Miss Essinger found the claimant to be very nice, open and honest. He highlights that she started the interview by saying that she was dealing with depression and that he thought that given the pressure, momentum and challenge of the account, both from their client and where they were in the process, she was not the right person to support the account. He also said that he thought to put the claimant in that position might be unfair to her. As such she would not be given the role. Mr Cervantes responded with "oh dear, why would you start an interview like that?????" He then agreed with the decision not to hire the claimant.
74. I find that it is far more likely than not that Mr Aris was being disingenuous when he told me that the claimant's ability to deal with stress was not a factor and that that her abilities and experience were the key point his decision-making process. That finding is supported by his conversation with Mr Cervantes. There was no

mention in this discussion, the only one we have any evidence for after the interview, of the claimant's skill set or experience. The discussion revolved around her depression and that it would not be fair to put her in the situation of dealing with the client.

75. When I review the evidence, I find that the true reason that the claimant was not hired to work with Client B is that they felt she would not be able to cope with the stress of the role. I find that this is something arising from her disability and therefore I find that the claimant has proved her case in relation to section 15(1)(a), in that the respondent treated the claimant unfavourably because of something arising in consequences of her disability.
76. But that is not the end of the matter. Section 15(1)(b) also needs to be considered. For the claimant to succeed in her claim the respondent must be unable to show that the treatment was a proportionate means of achieving a legitimate aim.
77. The respondent says that the legitimate aim here is one of placing suitable candidates into open roles based on its knowledge of what each role would entail and its understanding of a candidates' abilities.
78. The respondent's evidence was that this was a particularly difficult client and that the role involved significantly more stress than a normal role in marketing. They were of the view that they needed someone with a lot of resilience to cope with the role. The previous incumbent had been a freelancer who decided not to renew her contract on the basis that the role was too much stress.
79. The claimant, on her part, does not accept that this is any different from any other role. She says that all roles in this industry are stressful and she copes well with it.
80. In Miss Essinger's evidence she explained that she had a large amount of involvement in this contract and she was of the view that it was more difficult and more stressful than a normal role.
81. When Mr Aris gave evidence on this point, it was one of the few times that I was completely convinced by him. He set out that the respondent had only recently obtained this client from a competitor and it was so large as to be in the top 5 accounts in the whole group of companies of which the respondent is part. This was a new client who was expanding their portfolio. The respondent was dealing with very senior stakeholders at the client. They were going through a very rapid onboarding process with the client, taking over from their competitor and they were trying to set benchmarks for moving forwards. He explained that this required standing teams up from scratch.
82. Mr Aris stated that the respondent's initial performance for this client was not good and that everything they had prepared had failed testing. In contrast to the rest of his evidence, this admission was striking. Mr Aris came across as someone who does not like to admit any fault or shortcoming, so to openly and publicly admit such a failing adds to his credibility on this point.

83. I find that both Mr Aris and Ms Essinger were genuinely and reasonably of the view that this was a highly stressful account, more so than is the norm in this ordinarily stressful profession. Again, I remind myself that employers have a wide discretion in determining what factors are important when hiring someone and therefore ensuring that they appoint someone with resilience is a legitimate aim.
84. I then have to look at if the decision was proportionate. In other words, could they have done something less discriminatory? Had they made the decision upon the claimant's disclosure of depression alone then I would find that this was not proportionate. However, during the interview, it is common ground that they explored with the claimant how she would deal with stress. Essentially at this point, they were giving her the chance to demonstrate that she could cope with the pressure notwithstanding her condition.
85. As I set out above, the evidence before the Tribunal prior to my decision was unequivocal and uncontested that the claimant simply answered that the stress would take her mind off things. This was not a satisfactory answer to the question of how she would deal with stress.
86. I find that the respondent was open to considering her application despite her disclosure of a mental health condition. I find that they gave her the chance to present her abilities to manage a difficult client and that ultimately, she failed to satisfy them that that she could do the job. The claimant did not suggest that she could do the job with reasonable adjustments, she simply flunked the relevant question. Therefore, whilst a finely balanced decision I find that the respondent has met the evidential burden on them here and the claimant's claim fails on the basis of section 15(1)(b). As such I dismiss the claim for discrimination arising from a disability.
87. That means that all of the claimant's claims are dismissed.
88. As a footnote, the respondent reserved their position on costs. I was aware of an open offer of twenty thousand pounds made by the respondent to the claimant. I indicated at the time that if this was the only offer on which reliance was being placed in any application for costs, I would require convincing that refusing the offer and going to trial was unreasonable. As I said above, this was a finely balanced case and simply refusing an offer does not amount to unreasonable behaviour. I add this footnote as an indication of my current view which, as ever, is open to persuasion.

D J Wright

6 August 2025