EMPLOYMENT TRIBUNALS

Claimant: **Ms E Lewis**

Respondent: **Veolia ES UK Ltd**

Heard at: **Cardiff by CVP** **On: 14 August 2025**

Before: **Employment Judge C Sharp**
(sitting alone)

Representation:
Claimant: Not in attendance – not excused
Respondent: Mr S Healy (Counsel)

JUDGMENT

1. The Claimant's application to amend dated 9 January 2025 to add a claim of constructive unfair dismissal is refused. The Claimant did not have the required two years' service. The Claimant did not apply to amend to add claims of automatic unfair dismissal under s.101A Employment Rights Act 1996, failure to make reasonable adjustments under s20/21 Equality Act 2010, direct sex discrimination under s13 Equality Act 2010, or victimisation under s27 Equality Act 2010. Those claims are not within the ET1. They do not form part of the claim. The Claimant never disputed the list of issues prepared by Judge Brace on 3 January 2025 or argued that the automatic unfair dismissal claim was within the ET1 or before the Tribunal today.

2. The Claimant's claims of detriment due to a breach of the Working Time Regulations and/or a breach of the Working Time Regulations under Regulation 11 appear to have been abandoned. They are not part of the claims the Claimant now says she is seeking to advance. Out of an

abundance of caution, the Tribunal has reviewed the matter on the basis of the evidence before it and considers that it has no reasonable prospect of success as there has been no breach of Regulation 11 as asserted by the Claimant - it is lawful to require a worker to work 12 days in a row, provided they have 48 hours uninterrupted rest. The Claimant accepted that the one admitted breach in March 2024 was a one-off occasion, but her case is that having to work 12 days in a row was the reason she resigned; she is not relying on the one breach of Regulation 11. However, s45A Employment Rights Act 1996 (and s101A) requires an actual breach (and does not deal with dismissal of any employee); it is not a breach to be required to work 12 days in a row, so the Claimant's argument must fail. In any event, in respect of the single breach of March 2024, if the Claimant changed the basis of her case to argue about that, the Claimant did not enter into ACAS early conciliation until 12 September 2024. She would have been out of time to bring such a claim and there is no basis on which the Tribunal could find it was not reasonably practicable for the Claimant to claim in time as she was working throughout the limitation period for no more than 48 hours a week. The claims are dismissed.

3. The Claimant's claim of harassment relating to sex has no reasonable prospect of success. There is no explanation in her statement how the statutory test is met. The Claimant's alleged inability to get the code for the toilet is not affected by a suggestion that a man once or twice used the women's toilet; the question is why the code was allegedly refused. There was no basis on which sex appears to be relevant; simply wanting to access the women's toilet is not enough. The claim is dismissed.

4. The Claimant's claim of harassment relating to disability has no reasonable prospect of success. The claim is much more than limited that the Claimant now asserts – it is purely about whether Lisa Phillips or Lee-Anne Williams refused to give the Claimant the code to the women's toilet. The Claimant has not explained the link between her disability and how the alleged refusal of the provision of the code related to her disability. The Claimant's position has changed. She asserted in the ET1 she was refused the code; in her statement she now accepts she had it but claims it was changed. There are factual disputes between the parties which would need to be resolved at the final hearing, but taking the Claimant's case at its highest, the Claimant simply relies on her need to use the toilet without addressing the role her disability played in the alleged refusal of the code. The Claimant says that her dignity was violated due to unwanted conduct relating to her disability, but in truth it appears that her position is as simple as she wanted to use the toilet because her alleged disability, and she asserts due to the lack of a code, she could not. The Claimant accepts in her statement that there were other toilets, though she says that they were some distance away. One can understand the difficulty if the only toilets were some distance away, but this is a factual dispute. The Respondent says that the Claimant

is not being truthful in her account. If this was the only issue, the Tribunal would be minded to issue a deposit order.

However, the Claimant asserts that she is disabled due to a weak bladder. Her impact statement confirms that she has never had medical treatment for this condition. She says that there are no medical records, but also says she has consulted a doctor – this is a conflict which could only be resolved against the Claimant in the absence of disclosure of the medical record of that consultation. More critically, the Claimant also says in her impact statement that basic day-to-day activities were not significantly hindered; the main issue was that she felt stress and anxiety. That is not a day-to-day activity. The Claimant's friends/colleagues have given statements which support this – the Claimant does not suffer a substantial adverse effect on day-to-day activities. At its highest, the supporting witness statements tell the Tribunal that the Claimant has to use the toilet when she stops driving, and sometimes has an additional stop. This does not constitute a substantial adverse effect on day-to-day activities. As a result, the Claimant has no reasonable prospect of success in relation to the contention that she was disabled at the relevant time and the disability harassment claim is dismissed.

5. The final hearing will be vacated and the proceedings end. The above constitutes a summary of the reasons given as the Claimant did not attend. They are not the full written reasons and the parties are referred to the notes below.

Employment Judge C Sharp
Dated: 14 August 2025

JUDGMENT SENT TO THE PARTIES ON

14 August 2025

Adam Holborn
FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS

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.

Public access to employment tribunal decisions

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.

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

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