



# EMPLOYMENT TRIBUNALS

**Claimant:** Julie Evans

**Respondent:** Eddie Stobart Limited

**Heard at:** Liverpool Employment Tribunal via CVP

**On:** 4 September 2025

**Before:** Employment Judge Serr

**Representation**

Claimant: Mr K Connor, Solicitor

Respondent: Ms Halsall, Counsel

## PRELIMINARY HEARING IN PUBLIC JUDGMENT

1. At the relevant times (May- August 2024) the claimant was a disabled person as defined by section 6 Equality Act 2010 because of the menopause.

## REASONS

### Introduction

1. The Claimant brings claims for disability discrimination. The claims are set out in a List of Issues the Tribunal has had sight of. It is unnecessary to set out those issues. Suffice to say that the Claimant was a lorry driver with the Respondent's predecessor in title. She was transferred across to the Respondent in May 2024 (pursuant to the TUPE Regs) and dismissed from the Respondent with an appeal against dismissal being in August 2024. The material period is therefore May-August 2024.

2. The dispute revolves around an alleged refusal on the part of Respondent to provide a working pattern she had with the transferor which she says was a reasonable adjustment for her menopause symptoms.
3. The Claimant relies on menopause as the impairment. Disability is not conceded and EJ Wilkinson listed today's hearing as a public Preliminary Hearing to determine the issue of whether the claimant was a disabled person within the meaning of the Equality Act 2010 at all or any time relevant to the claims made.

### **Procedure**

4. The Tribunal had a file of 135 pages including a disability impact statement and extensive medical records. It heard from the Claimant who was cross examined and submissions in writing from Mr Connor and orally from Ms Halsall, representatives for both parties. The Tribunal is grateful for their assistance.

### **The Facts**

5. The Tribunal had as stated an impact statement from the Claimant and heard cross examination. It also had extensive medical records.
6. The evidence of the Claimant given in the witness statement and answers in cross examination are accepted in full. The Tribunal found the Claimant a straight forward witness who did not embellish, who made concessions when she needed to and, as will be seen, whose written and oral evidence to the Tribunal accorded with the medical records she produced.

### **The Claimant's evidence to the Tribunal**

7. Within the disability impact statement the Claimant gave the following relevant evidence:
  - 7.1 She is 54 and considered post-menopausal.
  - 7.2 In 2014-2015 she began to have some mood swings which caused her to register with her GP.
  - 7.3 In 2017 she began having problems with her memory, causing difficulty in concentrating while talking/driving and being forgetful.
  - 7.4 She was prescribed citalopram 20mg an anti-depressant to control erratic mood swings. The mood swings would detrimentally effect

relationships with friends and colleagues as she would make inappropriate and unpleasant comments.

7.5 She tapered down the citalopram in 2018 due to concerns over side effects despite the medication reducing the worst of her symptoms.

7.6 In August 2018 she raised the issue of hot flushes bloating and irregular periods with her GP and was told she was perimenopausal.

7.7 The hot flushes were short and sharp but unpredictable and extremely disruptive causing her to disrupt any activity she was undertaking including sleep and driving.

7.8 She was having night sweats as well and continued to have heavy and irregular periods and mood swings that made her tearful.

7.9 She was placed on Hormonal Replacement Therapy (HRT) in August 2019. She suffered from extreme fatigue, possibly from the menopause condition, from the HRT or a combination of both. Her sleep was disturbed. This would intermittently mean she could not sometimes get dressed or washed. Her sleep cycles were severely effected. She had night sweats.

7.10 There were periods when she was off HRT because she chose to for health reasons or simply couldn't obtain it. The sleep disturbance and night sweats continued throughout 2020 and 2021. Her periods ended in 2020 but she has continued to experience night sweats, hot flushes, tiredness and brain fog. She would have joint pain and fatigue causing physical discomfort.

7.11 She returned to HRT which did alleviate some symptoms but she came off HRT at the end of 2022 but resumed them in June 2024. The HRT alleviated some symptoms but there were side effects and health concerns about their use by the Claimant. In June 2024 she felt depressed and saw the GP. She had headaches, continued to have the brain fog as well as sleep disturbance.

7.12 In cross examination the Claimant accepted she had not taken time off work because this was because she was an agency driver rather than because she had no symptoms.

7.13 The symptoms really started "kicking in" in 2019.

7.14 The symptoms have not improved – tiredness, lack of sleep, pain in joints have persisted to a greater or lesser degree.

7.15 In January 2023 she came off HRT. Her working pattern with the previous employer meant that she could have 4 days off rest to alleviate symptoms but in her days off she was sometimes so tired she could not get out of bed.

7.16 She was still getting symptoms throughout 2023 and 2024 including hot flushes mood swings and brain fog. The HRT lifts her mood but does not stop the brain fog, tiredness and hot flushes.

### Medical Evidence

8. The following medical entries in the GP records are relevant:

8.1 12/12/17 likely menopause related mood swings. discussed options. not keen on mirena coil/hormonal contraception. would like something for mood swings. Given 20mg citalopram.

8.25/3/18 Pt taking citalopram 20 mg. has good sleep and controlling menopausal sx. Not keen on anti depressants. No redflags. Discussed adv can taper doen Citalopram to 10 mg od and observe response to menopausal sx. Pt keen to try it. Also can use OTC meds for menopause.

8.331/8/18 also experiences flushes ?perimenopausal periods irreg over last few months bloating symptoms.

8.44/9/18 came for a review of results, all normal, does show going through change, feels bloated, hot flushes, no bowel change gaining weight.

8.59/8/19 tearful and night sweats, feels can't cope with mood swings, periods heavy and frequent. Prescribed HRT.

8.62/9/19 discussion about taking tablets for HRT rather than patches due to a shortage and health concerns over tablets.

8.7 15/9/20 the GP recommended a book called confessions of a menopausal woman to assist the Claimant.

8.8 20/9/21 the Claimant complained of night sweats. The entry reads was on HRT patches but found her periods were very heavy on them. was on them 1-2 yrs ago; took a break few months ago. Since then her periods stopped. she would like to restart the HRT due to menopausal symptoms of hot flushes; feeling tired; and foggy. she is an HGV driver and feels it stops her from being active.

8.922/3/22 the Claimant requested HRT again.

- 8.10 1/8/22 it was noted that the night sweats were managed by the HRT. She was fatigued, had mood swings and was struggling to lose weight.
- 8.11 5/8/22 still emotional and getting flushes, on HRT 6-9 months.
- 8.12 5/1/23 bleeding since HRT was stolen from suitcase on holiday. Did not have any HRT for 2 weeks because of this. Now bleeding intermittently for 5 wks since then. No bleeding before this for 1 year on evorel conti.
- 8.13 3/4/24 given HRT.
- 8.14 4/6/24 she is going thru the menopause was on HRT couple of years ago. This was stopped and she was advised to have a smear by a GP. For the past 3 months she has been feeling increasingly tired and low in mood; she works as a lorry driver; she has no motivation for activities. Sleep is not predictable and can be good or disturbed. She feels forgetful and poor concentration; worse past 4-5 months. ICE: want to get out of this fog; I have nothing to be depressed about but I cannot pull myself out of it. She was prescribed a low dose of sertraline.
- 8.15 The prescription records show she stopped HRT the end of 2022 and restarted Jun 2024.
9. An occupational health (OH) report was commissioned by the Respondent dated 12 June 2024. That stated inter alia

*I understand from Miss Evans she is experiencing menopausal symptoms including hot flushes, mood swings and periods of irritability, reduced concentration, brain fog, pain in the joints and muscles of both legs and loss of energy and fatigue. She advised she is under the care of the GP on prescribed medications for low mood but is also due investigations to determine if she can resume Hormone Replacement Therapy (HRT). Miss Evans advised she was previously on HRT but due to symptoms she was taken off and is hoping all investigations will allow her to re-commence HRT and be taken off anti-depressant medications in the near future.*

*Menopause symptoms can fluctuate and be felt to varying degrees*

10. To the question "An opinion on whether the referred employee has any impairment/condition which is short or long term" the answer was:

*Menopause is a long term medical condition that can last for many years and can have a significant impact on a persons physical and psychological well being. It is essential employees are supported in the workplace to*

*minimise the impact and reduce the barriers to help Miss Evans perform well at work.*

### **The Law**

11. S.6 Equality Act 2010 states:

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.

Under Schedule 1 Part 1 Para 2 Long term means it has lasted 12 months, it is likely to last 12 months or it is likely to last the rest of the life of the person effected.

12. 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 occur.

13. Schedule 1 Part 1 Para 5 is headed effects of medical treatment and deals with the so called deduced effects provision.

(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.

Likely in this context means could well happen and substantial means more than minor or trivial

14. The following legal principles are relevant:

14.1 There is a 4 step approach usually to be adopted by the Tribunal in determining disability. Did the Claimant have a physical or mental impairment? Did the impairment affect the Claimant's ability to carry out day-to-day activities? Was the adverse condition substantial? Was the adverse condition long-term? -*Goodwin v Patent Office* (1999) ICR 302.

14.2 Under the EqA, the Tribunal must focus upon what a Claimant cannot do. As a matter of principle, it will be impermissible for a Tribunal to seek to weigh what a Claimant can do against what she cannot do, and then

determine whether she has a disability by weighing those matters in the balance- *Ahmed v Metroline Travel Ltd* (2011) UKEAT/0400/10.

14.3 The focus is on impacts to the Claimant. It is unnecessary to find any particular diagnosis. Further it may not always be possible, nor is it necessary, to categorise a condition as either a physical or a mental impairment. The underlying cause of the impairment may be hard to establish. There may be adverse effects which are both physical and mental in nature. Furthermore, effects of a mainly physical nature may stem from an underlying mental impairment, and vice versa- *Equality Act 2010 Guidance on matters to be taken into account in determining questions relating to the definition of disability* at A6 and *Rooney v Leicester City Council* (2022) IRLR 17.

14.4 Where a person has intermittent illnesses with gaps in between without any adverse effects the Tribunal may need to consider whether the person is suffering distinct impairments or one underlying condition. if the medical evidence supported the diagnosis of a condition producing recurrent symptomatic episodes, the claimant could properly claim to be disabled throughout the period: even if each individual episode were too short for its adverse effects (including 'deduced effects') to be regarded as 'long-term' she could invoke para. 2(2) of Schedule 1 (provided she could show that the effects were 'likely' to recur)- *J v DLA Piper* (2010) IRLR 936.

## **Conclusions**

15. Applying the law to the facts the Tribunal concludes as follows.

16. In the Tribunal's view the Claimant has suffered substantial adverse effects on her ability to undertake normal day to day activities continually, since at least mid-2019 and up to and throughout the material period in question. These effects include:

16.1 Mood swings detrimentally effecting relationships with friends and colleagues.

16.2 Brain fog causing difficulty in concentrating affecting driving on occasion and conversations with others.

16.3 Impacts on her memory.

- 16.4 Hot flushes which while short sharp and irregular caused the Claimant to have to stop what she was doing at any given time due to overwhelming feelings of heat and discomfort.
- 16.5 Tiredness and a disturbed sleep pattern which in turn caused day time tiredness. The tiredness has meant the Claimant is confined to bed on occasion and unable to undertake basic tasks such as personal hygiene and dressing.
- 16.6 Physical pain though joint pain which had similar impacts to the tiredness.
17. The effects have varied in severity and frequency over time. However they have never dissipated completely and have always met the threshold of substantial, with or without the taking of HRT. While sometimes they are alleviated to some extent by the taking of HRT, the Tribunal finds that without the HRT the adverse effects would have been more significant.
18. The decision to stop and restart HRT was not one driven by the fact that the Claimant had no adverse effects at any given time, but rather reasonable concerns around long term health implications as well on occasion the practical ability to obtain the medication.
19. So far as impairment is concerned, the Tribunal concludes that the Claimant has suffered a form of menopause throughout from at least 2019 which is a physical impairment. Whether any particular period can be characterised as perimenopause, menopause or post menopause is not straightforward, but it is unnecessary to come to any settled conclusion.
20. The adverse effects both mental and physical emanate from the general menopausal condition. The Tribunal rejects the assertion by the Respondent in closing submissions that the Claimant stopped suffering adverse effects from menopause at the beginning of 2023 and suffered a new and unrelated condition in or around June 2024 of hormonal imbalance that was not likely to recur. Leaving aside that menopause is, or itself can cause "hormonal imbalance", the evidence is clear that the impairment causing effects for which she visited her GP in June 2024 was the same impairment that she had suffered since at least 2019, and at no time had stopped causing some substantial adverse effects, albeit fluctuating in severity.
21. This is an example of a single condition causing fluctuating symptoms throughout a period. Accordingly even if the Tribunal were wrong and there were periods where there were no adverse effects or no substantial ones, the impairment is long term due to the likelihood of its recurrence. In this respect the Tribunal notes the evidence of the OH report that the



Menopause is a long term medical condition that can last for many years and can have a significant impact on a person's physical and psychological wellbeing.

22. Accordingly the Tribunal finds that the Claimant was at all material times a disabled person within the meaning of the Equality Act.

Approved by:

**Employment Judge Serr**

**4 September 2025**

JUDGMENT SENT TO THE PARTIES  
ON 19 SEPTEMBER 2025

FOR THE TRIBUNAL OFFICE

### **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. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

[www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/](http://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/)