



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
MS T CHADBURN

AND

Respondent
THE CAFFEINE CLUB LTD

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 30TH OCTOBER 2025

EMPLOYMENT JUDGE MR P CADNEY MEMBERS:
(SITTING ALONE)

APPEARANCES:-

FOR THE CLAIMANT:- IN PERSON

FOR THE RESPONDENT:- NO APPEARANCE

JUDGMENT

The judgment of the tribunal is that:

- i) The claimant was at the material times a disabled person within the meaning of s6 Equality Act 2010.
- ii) The claimant's claim for discrimination arising from disability pursuant to s15 Equality Act 2010 is well founded and upheld.
- iii) The claimant is awarded compensation in the total sum of £26,059.05 (as set out in detail in the body of the decision).

Reasons

1. By a claim form submitted on 20th April 2024 the claimant brings claims of disability discrimination arising out of the termination of her employment by the respondent. No response as been submitted to the claim and this hearing was listed to determine:
 - i) Whether at the material times the claimant was a disabled person within the meaning of s6 Equality Act 2010;
 - ii) If so did she suffer disability discrimination and if so what form;
 - iii) If she did what compensation is payable?
2. Disability – The claimant has in accordance with the directions supplied a Disability Impact Statement and Medical Evidence.
3. In her DIS she states that she has struggled with depression and anxiety since the age of fifteen. This resulted in a number of episodes of self-harm beginning in 2020, and including an episode in February 2023 when she was hospitalised. Shortly after her employment began with the respondent, on 11th September 2023 she was diagnosed with mixed anxiety and depression. She was originally prescribed sertraline but it caused more difficulties than it solved in that it made her more anxious and caused her to have panic attacks and breakdowns. She was taken off the drug and placed on a waiting list for therapy, which due to the long waiting list she began in June 2025.
4. The effects on her normal day to day activities included that she needed to be prompted to eat; she would not socialise and neglected her personal hygiene, she would neglect laundry and frequently wore dirty clothes; and her mood was depressed or anxious.
5. In order to be a disabled person within the meaning of s6 Equality Act 2010 the claimant must fulfil three elements of the statutory test:-
 - i) She must have a physical or mental impairment; which
 - ii) Causes a substantial adverse effect on normal day to day activities; and which
 - iii) Is long term; meaning that it has lasted or is likely to last for twelve months (meaning that it “could well happen” that it lasts for twelve months as judged at the time of the act of discrimination).
6. A general summary of the overall structure of the law is set out below and specific points relevant to this case are dealt with in relation to the individual issues:

The Relevant Law

Section 6 of the Equality Act provides as follows:

*a person (P) has a disability if-
P has a physical or mental impairment, and
the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.*

Schedule 1 to the Equality Act 2010 contains further clarification on the matters to consider when determining disability and provides in so far as is relevant:

Long-term effects

*2 (1) The effect of an impairment is long-term if—
it has lasted for at least 12 months,
it is likely to last for at least 12 months, or
it is likely to last for the rest of the life of the person affected.*

Impairment

The meaning of impairment is dealt with at A3 of the Guidance which provides: “the term mental or physical impairment should be given its ordinary meaning. It is not necessary for the cause of the impairment to be established, nor does the impairment have to be the result of an illness.”

Thus ‘Impairment’ in s.6 EQA 2010 bears ‘its ordinary and natural meaning... It is left to the good sense of the tribunal to make a decision in each case on whether the evidence available establishes that the applicant has a physical or mental impairment with the stated effects’ (McNicol v Balfour Beatty Rail Maintenance Ltd 2002 ICR 1498, CA) The term is meant to have a broad application.

The meaning of ‘substantial adverse effect’ is considered at section 212(2) EQA 2010 and paragraph B1 of the Guidance which provides “a substantial effect is one that is more than a minor or trivial effect”.

The Tribunal’s focus, when considering adverse effects upon day-to-day activities, must necessarily be upon that which claimant maintains he cannot do as a result of his physical or mental impairment” (see Aderimi v London and South Eastern Railway Ltd UKEAT/0316/12, [2013] ICR 591).

In that context, the appendix to Schedule 1 of the Equality Act 2010 includes examples of factors which it would be reasonable to regard as having a substantial adverse effect on normal day-to-day activities. These include “a total inability to walk, or inability to walk only a short distance without difficulty; for example because of physical restrictions, pain or fatigue, and persistent distractibility or difficulty concentrating.”

Conversely the guidance indicates that the following factors would not reasonably be regarded as having such an effect: “experiencing some tiredness or minor discomfort as a result of walking unaided from a distance of about 1.5 kilometres or 1 mile; inability to concentrate on a task requiring application of several hours.”

Day-to-day activities include normal day-to-day activities and professional work activities, even if there is no substantial adverse effect on activities outside work or the particular job (see Igweike v TSB Bank Plc [2020] IRLR 267). In conducting that assessment, the tribunal should disregard the effects of treatment (see Guidance at sections B12 to B-17).

The Guidance addresses recurring or fluctuating effects at C5. Examples of how to address episodes of such conditions as depression, or conditions which result in fluctuating symptoms are given at paragraphs C6, C7 and C 11; they provide:

C6. If the substantial adverse effects are likely to recur, they are to be treated as if they were continuing. If the effects are likely to recur beyond 12 months after the first occurrence, they are to be treated as long term.

C7. It is not necessary for the effect to be the same throughout the period which is being considered in relation to determining whether the “long-term” element of the definition is met. A person may still satisfy the long-term element of the definition even if the effect is not the same throughout the period. It may change: for example activities which are initially very difficult may become possible to a much greater extent. The effect might even disappear temporarily. Or other effects on the ability to carry out normal day-to-day activities may develop and the initial effect may disappear altogether.

C11. If medical or other treatment is likely to permanently cure condition and therefore remove impairment so the recurrence of its effects would then be unlikely even if there were no further treatment, this should be taken into consideration when looking at the likelihood of recurrence of those are facts. However, if the treatment simply delays or prevents a recurrence, and a recurrence would be likely if the treatment stops, as is the case with most medication, then the treatment is to be ignored and the effect is to be regarded as likely to recur.

In order to determine whether a claimant has a disability the tribunal should consider four questions (see Goodwin v Patent Office [1999] ICR 302, EAT):-

- i) did the claimant have a mental and/or physical impairment? (the ‘impairment condition’)*
- ii) did the impairment affect the claimant’s ability to carry out normal day-to-day activities? (the ‘adverse effect condition’)*
- iii) was the adverse condition substantial? (the ‘substantial condition’),*
- iv) and was the adverse condition long term? (the ‘long-term condition’).*

It will not always be essential for a tribunal to identify a specific ‘impairment’ if the existence of one can be established from the evidence of an adverse effect on the claimant’s abilities — J v DLA Piper UK LLP 2010 ICR 1052, EAT. Similarly, it is not always necessary to identify an underlying disease or trauma where a claimant’s symptoms clearly indicate that he or she is suffering a physical impairment — College of Ripon and York St John v Hobbs 2002 IRLR 185, EAT

Substantial - The meaning of 'substantial adverse effect' is considered at section 212(2) Equality Act 2010 and paragraph B1 of the Guidance which provides "a substantial effect is one that is more than a minor or trivial effect".

Effect on normal day to day activities - The Tribunal's focus, when considering adverse effects upon day-to-day activities, must necessarily be upon that which claimant maintains he cannot do as a result of his physical or mental impairment" (see *Aderimi v London and South Eastern Railway Ltd* UKEAT/0316/12, [2013] ICR 591).

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Conversely the guidance indicates that the following factors would not reasonably be regarded as having such an effect: "experiencing some tiredness or minor discomfort as a result of walking unaided from a distance of about 1.5 kilometres or 1 mile; inability to concentrate on a task requiring application of several hours."

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7. The central difficulty in cases involving mental health issues is deciding whether symptomatic episodes are discrete unrelated episodes, or the symptomatic manifestation of some long term underlying or recurring condition. If the former, then unless each episode lasted longer than, or was likely to last longer than, twelve months then the individual would not be a disabled person for that period. If the latter they would, as the condition would necessarily be either long term or recurring.
8. In this case the claimant's evidence is that the condition has been present since she was fifteen, and included a period of some three years from 2020 to 2023 in which there were episodes of serious self-harm. She was diagnosed with mixed anxiety and depression, and was prescribed sertraline during the early part of her employment with the respondent. In my judgement for the period of employment she clearly satisfies part of the statutory definition in that the condition had a substantial adverse effect on her ability to carry out her normal day to day activities during that period.
9. That leaves the question of whether the condition a long term. I accept the claimants evidence that she has suffered from the condition since fifteen with consistent and regular symptomatic episodes since then; and in my judgment there is sufficient evidence to conclude that the episode from which the claimant suffered between September 2023 and January 2024, was a manifestation of an underlying condition .

It follows that as it had lasted for more than twelve months that and the claimant was a disabled person at the material times.

10. Claim – The factual basis for the claim is that the claimant commenced employment as a barista on 6th September 2023. She would often struggle with the effects of her condition during a shift but the issue could normally be resolved if she could take a short break. On 17th November 2023 she was in a particularly bad mental state and despite taking a number of breaks, and describes herself as having a breakdown and being unable to complete her shift. The following day she began three weeks agreed absence to restore her mental stability. On 27th November she emailed stating that she was ready to re-commence work, but starting with two shifts and increasing as her confidence grew. In fact from that point she was never provided with any further shifts . On 9th January 2024 she was informed by Freya Smye that she had been told to dismiss the claimant as she was not the right fit for the company.
11. The claimant contends that her dismissal was necessarily connected to either disability or the absence caused by it, which would give claims for either direct discrimination contrary to s13 Equality Act 2010; or discrimination arising from disability contrary to s15 Equality Act 2010.
12. The first question is whether there is sufficient evidence to satisfy stage 1 of the Igen v Wong test ; that is whether there are facts from which the tribunal could draw the inference that the failure to provide shifts and/or dismissing the claimant were acts of discrimination in the absence of any explanation from the respondent. If so the burden of proving a non-discriminatory explanation falls to the respondent. In my judgement the respondent's failure to engage with the claimant, to provide her with any shifts after 27th November 2023, when she had worked twenty hours a week on average prior to her absence, and the act of dismissing her both sufficient to satisfy stage 1 of the test and transfer the burden of proof. As the respondent has not submitted a response, or attended the hearing, there is necessarily no evidential basis for concluding that they have satisfied the burden.
13. In my judgement the most natural implication of the facts as set out above is that the respondent decided that it no longer wished to provide shifts to the claimant or continue to employ the claimant as a result of her absence between 17th and 27th November 2023 . This would appear to make this a claim of discrimination arising from disability – the unfavourable treatment being firstly the refusal to provide her with shifts from 27th November 2023, and then dismissing her. If the natural inference is that this was done because of her absence, which in my judgement it is, there is causal link between the unfavourable treatment and the absence which is something arising from disability. Thus the claim would be made out unless the respondent could establish a justification defence, that the failure to provide shifts and/or dismissing the claimant was a proportionate means of hiring a legitimate aim. Again as it has not entered a response or attended the hearing it has not established any such defence.
14. It follows that I will enter judgement for the claimant in respect of the s15 Equality Act claim.

15. Remedy – In her Schedule of Loss the claimant sets out the following claims:

- i) Loss of Earnings - £7,502.40 (Based on average weekly pay from the respondent pre 17th November 2023 - 20 x £10.42- and total lost wages being £208.40 x 36)
- ii) Loss of Accrued Holiday pay - 77.4 hours x £10.42 = £806.51;
- iii) Injury to feelings – Middle band Vento - £15,000 for dismissal leading to a severe ongoing impact on mental health during 8 months unemployment.
- iv) Total before uplift £23,308.91
- v) 25% ACAS uplift – Total £29, 136.14 failure

16. Loss of Earnings – I accept the claimant evidence and calculation and award **£7,502.40**.

17. Accrued holiday pay - I accept the claimant evidence and calculation and award **£806.51**;

18. Injury to Feelings - The claimant's evidence, which I accept, is that the effect of her dismissal was to worsen her mental health difficulties, and add further stress, anxiety and depression to her mental state. She describes herself as feeling as if she had disappointed everyone and kept ruminating on whether the events were her fault. In my judgement given the effect on the claimant, the award should fall at the lower end of the middle bracket (£11,200 - £33,700) and I accept the proposed figure of **£15,000**.

19. ACAS Uplift – The acts of discrimination themselves were the failure to provide shifts and/or dismissing the claimant. It does not appear to me that the ACAS disciplinary / grievance process is relevant to and / or engaged by these acts of discrimination and so I do not award any uplift on that basis. In addition and for completeness sake, although the claimant has complaints about the conduct and outcome in respect of her subsequent grievance she has not identified any specific breach of the ACAS code and does not allege that it was in and of itself discriminatory.

20. Interest – Although the claimant has not submitted any claim for interest I am obliged to award it and the interest awarded is as set out below.

21. Interest – Injury to feelings - The period of the discrimination began on 27th November 2023; and I am required to award interest at 8% per annum, giving interest of £1200 per annum. The total award is for the period of twenty three months between the start of the discrimination and the date of the hearing; giving a total of **£2,300**.

22. Interest – Financial losses – The losses were incurred between November 27th 2023 and the beginning of August 2024 (some eight month) and total £7,502.40. Again taking the midpoint gives 4 months and a further fourteen months from August 2024 to end of October 2025 giving a total of 18 months. Dividing that in half so as to

compensate from the midpoint as I am required to do, gives 9 months giving interest of (8% / 12 x 9). The total is = **£450.14**

Employment Judge Cadney
Dated: 30 October 2025

Sent to the parties on
28 November 2025

Jade Lobb
For the Tribunal Office