



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr P Hamlyn  
**Respondent:** Fedex Express  
**Heard at:** Reading **On:** 12 & 13 January 2026  
**Before:** Employment Judge Anstis  
Mr P Hough  
Ms B Osborne

## Representation

Claimant: In person  
Respondent: Mr I Wright (counsel)

# JUDGMENT

1. The claimant's claims of disability discrimination are dismissed.
2. The respondent has made unauthorised deductions from the claimant's wages and must pay the claimant £80.34.

# REASONS

## INTRODUCTION

1. At the conclusion of the hearing the respondent requested written reasons for our decision. That request was limited to the reasons for our decision on disability discrimination, and accordingly these reasons are limited to that decision. Reasons for the judgment on deductions from wages having been given orally at the hearing, written reasons will not be provided unless 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.
2. While preparing these reasons I was referred to an email from the claimant submitted the morning after the conclusion of the hearing, which I took to be a request for these reasons to also be provided to him. Of course that will happen and it will not just be the respondent receiving these reasons.

3. By a case management order of EJ Hawksworth, the claimant's disability discrimination claims were identified as claims of direct disability discrimination and discrimination arising from disability, both in respect of his dismissal. His disability is said to be two prolapsed discs in his lower back and ruptured ligaments in both knees. The matter arising from his disability was said to be "*the claimant's restrictions on duties, in particular on lifting*".
4. The respondent does not accept that the claimant was a disabled person at the relevant time, does not accept that it knew of his alleged disability (to the extent that is relevant), does not accept that lifting restrictions was a matter arising from the alleged disability and says that in any event his dismissal (which it characterises as failing his probationary period) was nothing to do with a disability or indeed any medical condition or its consequences.
5. On the question of the claimant's dismissal, the respondent in its amended grounds of resistance says:

*"The Claimant was dismissed during his probation period because the Claimant had:*

  - a. *been recorded as having had two accidents within the prior three months, causing high levels of repair costs to the Respondent;*
  - b. *been taking longer than expected to complete delivery runs according to his tachograph readings;*
  - c. *speaking to customers and colleagues in an unacceptable manner; and*
  - d. *was often unhelpful to other team members and did not work as part of a team."*
6. The decision to dismiss the claimant was taken by Ian Spurr, at the time the deputy manager of the respondent's Slough station, where the claimant worked. We also heard evidence from Leroy Lambert, a supervisor at the Slough station, who was the claimant's direct line manager, and the claimant himself. The claimant appealed against his dismissal. The respondent put forward a witness statement from the appeal officer and the appeal officer also attended the tribunal hearing. The claimant indicated he did not intend to question the appeal officer, so the appeal officer's statement was taken as read, without the need for him to give oral evidence. We also heard evidence from the claimant himself, with his oral evidence comprising a witness statement, disability impact statement and the first page of an earlier statement submitted by him.
7. Without prejudice to the respondent's contention that the claimant's back and knee condition did not amount to a disability, during the hearing we

asked the claimant if there was anything that could be done to make him more comfortable in the tribunal, and at his request he was provided with an adjustable chair.

## THE REASON FOR DISMISSAL

### Introduction

8. As Mr Wright said in his closing submissions, at least three points arose on the disability discrimination claim: whether the claimant was a disabled person, what, if anything, the respondent's officers knew of this, and what the reason for dismissal was. Mr Wright invites us to consider the reason for the claimant's dismissal first. As he puts it, *"if the reason was dismissal was not 'because of' or 'arise from his disability' then C's claim must fail even if he proved he was disabled and R was aware of the disability."*
9. We accept that invitation and, for the reasons that follow, that is all that needs to be decided in this case. We therefore assume for the purposes of this section of the decision that the claimant was a disabled person and that the respondent's officers were fully aware of that disability. That is simply an assumption for the purposes of looking at the reason for dismissal: we make no finding in this decision as to whether the claimant was a disabled person or what the respondent knew of this. In the light of our findings on the reason for dismissal we do not need to address those points, nor do we need to address whether restrictions on lifting was a matter arising from the claimant's alleged disability. We also do not need to consider the "legitimate aim" put forward by the respondent in its amended grounds of resistance.

### The law

10. Under s13(1) of the Equality Act 2010:

*"A person (A) discriminates against another (B) if, because of [disability], A treats B less favourably than A treats or would treat others."*
11. At an early stage in proceedings we referred the claimant to para 3.29 of the EHRC Code of Practice on the question of the appropriate comparator in a claim of direct disability discrimination. In his closing submissions the claimant disputed that that was a proper account of the law, saying that *"comparing disabled workers to able bodied workers should be the acceptable, as that is how life works in the real world"*. In a sense that is, of course, what para 3.29 requires. The difficulty for the claimant is that those able bodied workers must also have the *"same abilities or skills as the disabled person"*. For instance, as we suggested during the hearing, an individual who had restrictions on their lifting ability but only on a temporary basis, such as through a broken bone or sprain that was expected to heal in a short period of time.

12. Under s15(1):

*“A person (A) discriminates against a disabled person (B) if:*

- (a) A treats B unfavourably because of something arising in consequence of B’s disability, and*
- (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.”*

13. In both cases:

- a. The claimant has the benefit of s136(2): *“if there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred”*, subject to s136(3), which provides that s136(2) does not apply *“if A shows that A did not contravene the provision”*.
- b. There will be unlawful discrimination if the disability or a matter arising from the disability is *“a cause of the ... treatment”*. It does not need to be *“the only or even the main cause”* (para 3.11 of the EHRC Code of Practice, which we consider applies both the direct discrimination and discrimination arising from a disability claims).

### **The reason for dismissal**

- 14. Unfortunately a common theme throughout this hearing has been the lack of any attempt by the claimant to provide anything from which we could conclude that his dismissal was in any way caused or affected by his alleged disability or anything related to his alleged disability.
- 15. As we pointed out to the claimant at the time, while his witness statement(s) contained lengthy and detailed criticisms of the respondent’s conduct, there is nothing in them that even asserts that his dismissal was anything to do with his alleged disability, let alone provides evidence in support of such a case. In his apparent eagerness to highlight what he saw as multiple deficiencies on the part of the respondent, he had omitted to address the main point of his claim, which was whether his alleged disability or its consequences had anything to do with his dismissal.
- 16. It is unusual, although perhaps not necessarily determinative of a claim of discrimination, that a claimant has offered no evidence in support of it. However, the problem continued through the claimant’s cross-examination of the respondent’s witnesses. The claimant raised a number of points in his cross-examination, none of which were anything to do with the effect his alleged disability (or its consequences) had on the decision to dismiss him. We prompted the claimant on that point, and he did then put to Mr Spurr that his dismissal had been brought about by his disability or a restriction on his lifting. Mr Spurr emphatically denied that and the claimant

found himself with no basis on which he could challenge that denial.

17. We have, nevertheless, considered the position more broadly, particularly in relation to the question of whether restrictions on lifting played any part in the claimant's dismissal.
18. Both Mr Lambert and Mr Spurr gave us in their evidence multiple incidents that they said led to the claimant's dismissal, and which are consistent with the reasons the respondent says the claimant was dismissed. None of those have anything to do with lifting. Of the many complaints made by the claimant the only one that relates in any way to lifting was in respect of the delivery of a heavy home gym, said to weigh 67kg, but in this respect the claimant's issue seemed not to be that his disability meant that he could not lift that, but that no-one (whether disabled or not) should be expected to handle such an item without assistance from a colleague (or maybe two colleagues).
19. Of the reasons given for dismissal, and incidents relied upon by the respondent, it is clear that the claimant had a different perspective on those, but there is no doubt that they occurred in one form or another, and it seems to us that they were matters the respondent could properly rely on and that would fully explain the decision to dismiss him. We were also impressed that Mr Spurr took time, including breaking the meeting for a number of days, to follow up on some of the points that the claimant was making at the time in his defence. There is nothing in any of this that suggests to us that the respondent was eager to dismiss the claimant or that his alleged disability or any restriction on lifting played any part in the decision to dismiss the claimant. We heard nothing that would suggest that the claimant's dismissal was anything to do with his disability or any restrictions on his lifting. The disability discrimination claims must therefore be dismissed, without us needing to go further and decision whether the claimant was at the time a disabled person and what knowledge the respondent had of this.

Approved by Employment Judge Anstis  
14 January 2026

JUDGMENT SENT TO THE PARTIES ON

....4 March 2026.....

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FOR THE TRIBUNAL OFFICE

**Notes**

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.

**Case Number: 3308700/2024**

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[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/)