



EMPLOYMENT TRIBUNALS

Claimant: Mrs E Armitage

Respondent: Aldi Stores Limited

Heard at: Birmingham Employment
Tribunal

On: 6 February 2026

Before: Employment Judge Wright

REPRESENTATION:

Claimant: Mr Bidnell-Edwards (Counsel)

Respondent: Mr F Curry (Counsel)

PRELIMINARY HEARING IN PUBLIC JUDGMENT

The judgment of the Tribunal is as follows:

Disability

1. At the relevant times, from June 2024 - August 2024, the Claimant was a disabled person as defined by section 6 Equality Act 2010 by reasons of Coeliac Disease, chronic fatigue and problems with concentration and memory following a TIA.
2. The Claimant's complaints of direct discrimination, discrimination arising from disability and failure to make reasonable adjustment can therefore proceed.

REASONS

Case Summary

3. The Claimant works for the Respondent as a National Payroll Team Leader and has been employed with the Respondent since 17 September 2012 and remains employed.
4. The Claimant is making complaints of direct disability discrimination, discrimination arising from disability and failure to make reasonable adjustments.
5. This preliminary hearing in public was listed purely to determine whether the Claimant was disabled at the relevant time. The list of issues to be determined at this preliminary hearing are as set out in at paragraph 4 of the case management order of Judge Davidson dated 8 November 2025.

Documents and evidence

6. The Claimant provided two Impact Statements for this hearing. The Respondent's initial objections to the Claimant relying on a second impact statement were heard at the start of the hearing and I determined that the Claimant would be permitted to rely on both statements. Brief reasons for this were provided during the hearing.
7. I also had before me a bundle of documents of 702 pages which included medical evidence. I only considered the documents that I was specifically referred to by the parties.
8. The Claimant gave witness evidence at the hearing and was cross-examined by the Respondent's counsel on this evidence.

Disability

9. For the purposes of pursuing discrimination claims on the basis of the protected characteristic of disability, a Claimant must satisfy the test under s.6 of the Equality Act 2010. That states:
10. (1) 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.

11. When considering whether a disabled person is disabled under s.6 of the Equality Act 2010, the supplementary provisions for determining that disability appear in part 1 of Schedule 1 to the Equality Act 2010. Both parties also referred me to the Equality Act 2010 Guidance that Tribunals are required to consider.
12. The Claimant relies on the following conditions:
 - a. Transient Ischaemic Attack (TIA) – first diagnosed 3 June 2024, with a second confirmed episode (from an MRI) on 20 August 2024; and the associated conditions of,
 - b. Coeliac Disease
 - c. Chronic Fatigue
 - d. Cognitive Impairments – including problems with concentration and memory
 - e. Dizziness and regular headaches
 - f. Anxiety and Depression – diagnosed in October 2024, with symptoms consistent with PTSD
 - g. Health Anxiety
13. The Claimant has been prescribed the following medication:
 - a. Clopidogrel 75 mg (from 3 June 2024)
 - b. Atorvastatin 80 mg (from 10 June 2024)
 - c. Pantoprazole 20 mg (from 27 November 2024)
 - d. Sertraline 50 mg (from 9 January 2025)
14. The determination of disability is a legal not a medical one to be made based on the evidence before me.

Findings of Fact

15. The Claimant was diagnosed with Coeliac Disease in or around the end of 1998. The Claimant had a suspected Transient Ischaemic Attack (TIA) on 3 June 2024. Neither of these points are in dispute.
16. In respect of her Coeliac Disease, the Claimant follows a medically prescribed gluten free diet which she has followed since she was first diagnosed (supported by medical evidence at page 389 of the bundle). She was originally prescribed food on prescription and there was a list of food that she could have. As gluten free food has become more readily available, this is no longer prescribed via prescription. Whilst this diet helps to control her gastric symptoms, although not fully (she gave evidence that she still gets bloating, cramps and an extended abdomen), the Claimant gave evidence that she has continued to have a level of fatigue from this. I accept this evidence and her evidence that following her return from a holiday, in May 2024, she was struggling with chronic fatigue.

17. The Claimant suffered a suspected TIA on 3 June 2024 and a further one in August 2024. The Respondent's counsel pointed to suggestions that the symptoms suffered in August may have been because of alcohol or coffee consumption as referenced in medical notes before an MRI was carried out. I however accept the Claimant's evidence that she had drunk very little of either that could have accounted for her symptoms.
18. Following this TIA, I accept the Claimant's evidence that her fatigue worsened and it became increasingly difficult for her to undertake day-to-day activities, with it taking her as long as 3 hours to have breakfast and get dressed in the mornings as she needing to take frequent breaks during the process .
19. She described initial issues with balance, dizziness and headaches and stated that she suffered health anxieties and depression after the TIA. She attempted to return to work in August but felt unwell on arrival, suffering dizziness and sickness. Her symptoms then worsened and she was then off sick from 8 August until the end of August, when she again attempted to return to work. I accept the Claimant's evidence that after 4-days she was exhausted. She was then off work for 2 weeks owing to annual leave, and upon her return, notwithstanding that she had returned on a reduced hours phased return, continued to struggle. She stated her GP had recommended that she return for 2 hours a day, but that the Respondent agreed to 3 hours and gradually increase to this over a 6-month period. She confirmed that, owing to fatigue, she had to utilised significant accrued holiday (48 days) to reduce the hours she was working so that she could have days off. She gave evidence, which I accept, that she had issues with concentration and memory, struggling to process tasks and having to write down how to do tasks that she previously had managed without difficulty. She confirmed that in January 2026 she had had to increase her hours to 30 a week and was really struggling and not sure how she was going to get through each day and week.
20. It was put to the Claimant by the Respondent's counsel that that a TIA is transient and that she was fine after the initial symptoms following the TIA. She confirmed that she was told that sometimes people are OK in weeks, sometimes months and sometimes not at all. I accept the proposition that this is not a fixed outcome and accept the Claimant's evidence on this. Whilst I acknowledge that the Claimant was taken to medical documents referencing things being "normal", I accept that this related to issues of numbness and whether she was able to lift her limbs up as the treating physician was checking these specific symptoms, rather than whether the Claimant had ongoing fatigue and memory and concentration issues. There is reference in a medical letter I was referred to dated 31 December 2024, following the Claimant's check-up regarding her Coeliac Disease, to her suffering from fatigue since the TIA and to her being off work owing to fatigue (page 252).

21. After the TIA the Claimant was required to take aspirin for 1 month to thin her blood and was prescribed statins and other medication for life. She gave evidence that the level of medication she was prescribed was high because of the high risk of further TIAs and stroke. She confirmed, for comparison, that her husband, who has heart issues, was on a dose of 10mg of Atorvastatin whereas she was prescribed 80mg.
22. The Claimant was referred to page 272 in cross-examination, which references her walking her dogs “without any problems”. The Claimant confirmed that this was in reference to her not needing a stick or anything. I accept this evidence and note that in the same paragraph there is reference to “systems review revealed recent fatigue”.
23. Regarding evidence provided by the Claimant concerning anxiety and depression and issues with sleeping, much of what she has stated in her impact statement was around the time of her grievance hearing. In addition, in cross-examination, she referenced issues with her mental health going back to childhood, but she provided no further information or evidence and stated that she had always had “some level” of anxiety.

Conclusion

Coeliac Disease

24. In respect of the Claimant’s Coeliac Disease, I was invited by the Respondent’s counsel to find that the need to follow a diet was a trivial adjustment and the Claimant could be reasonably expected to alter her behaviour to do this and that in doing so her Coeliac Disease ceases to have a substantial adverse effect. I was referred to the case of *Metroline Travel Ltd v Stoute* [2015] UKEAT/0302/14/JOJ in which the Claimant needed to avoid “sugary drinks”.
25. As I have found that the Claimant’s diet was a strict medically prescribed diet, I consider this quite different from a need to avoid sugary drinks and therefore don’t find the *Stoute* case of any relevance to the case before me. I was referred by the Claimant’s counsel to B12 of the ERC guidance. This states that “medical treatment includes counselling, diet and therapies”. I found the Claimant’s medically prescribed diet to be medical treatment.
26. The Equality Act provides that where an impairment is subject to treatment or correction, the impairment is to be treated as having a substantial adverse effect if, but for the treatment or correction, the impairment is likely to have that effect. In this context, ‘likely’ should be interpreted as meaning ‘could well happen’. The practical effect of this provision is that the impairment should be treated as having the effect that it would have without the measures in question. The Act states that

the treatment or correction of measures to be disregarded for these purposes include, in particular, medical treatment. In this context, medical treatment would include the need to follow a particular diet in addition to treatments with drugs.

27. This provision applies even if the measures result in the effects being completely under control or not at all apparent. Where treatment is continuing, it may be having the effect of masking or ameliorating a disability so that it does not have a substantial adverse effect. If the final outcome of such treatment cannot be determined, or if it is known that the removal of the medical treatment would result in either a relapse or a worsened condition, it would be reasonable to disregard the medical treatment.
28. As I have found that in the Claimant's case a medically prescribed gluten free diet was medical treatment, it should be disregarded when considering whether the Claimant is disabled. Coeliac Disease is a continuing condition and untreated causes severe abdominal issues and fatigue. It was accepted that, as the Claimant has suffered with this condition since 1998, it is long-term. I find that the impairment has a substantial and long-term adverse effect on the Claimant's ability to carry out normal day-to-day activities and, as such, she is disabled by virtue of it and was at the material time.

TIA

29. Regarding the Claimant's TIA, owing to the check-ups that the Claimant had subsequently to this I was invited to find that the impact from this was short-lived as her medical records refer to her being fine afterwards. Therefore, I was invited to find that this not substantial or long-term and that the Claimant was exaggerating her symptoms in her impact statements.
30. However, I accept the Claimant's evidence that these check-ups by the stroke specialist were in relation to whether she could lift her limbs and whether she was experiencing numbness, not in respect of the fact that she was still suffering fatigue and issues with her memory, and I have addressed this in my finding of facts.
31. I do not find that the Claimant's issues with dizziness and headaches satisfy 6(1)(b) of the Equality Act 2010 as I consider that I was presented with insufficient evidence to conclude that these conditions had both a substantial and long-term adverse effect on her ability to carry out day-to-day activities. I do however accept her evidence regarding suffering fatigue and issues with her concentration and memory. I find these to be substantial in terms of having an adverse impact on her ability to carry out day-to-day activities.
32. Looking at the legal test, I must consider whether the impairment was long term at that time (including taking account of the likelihood of recurrence). Having applied the test of whether the adverse effect was (at that time) likely to recur, I find that

owing to the Claimant been prescribed medication for life from June when she suffered the suspected TIA and given the high dosage of medication prescribed, there was a strong risk of reoccurrence of TIA or stroke at the relevant time. As such, the definition of “likely” under the act, being that it could well happen, is satisfied.

33. At that point in time, I find that the TIA was a physical impairment that caused both physical and mental symptoms in causing fatigue and problems with the Claimant’s concentration and memory. I further find the impact was long-term due to the likeliness of recurrence. I therefore find that from June 2024, when the Claimant was prescribed medication because of her high risk of further TIAs or a stroke, she was disabled by reason of the TIA or symptoms caused by the TIA, as they were likely to last 12 months or more. I don’t agree with Counsel for the Respondent that because this was preventative medication it should be set aside for determining the issue of disability. I find that without the drugs prescribed, her risk of a further TIA or stroke at the time and the symptoms she experienced (and she is still experiencing) were likely to reoccur. I therefore find the test of substantial and long-term adverse effects of the condition(s) on the Claimant carrying out day-to-day activities met.
34. In conclusion, I find the Claimant to be disabled by reason of the conditions set out at 12 a-d. I do not find this to be the case in respect of 12 e.

Anxiety and depression and health anxiety

35. As to anxiety and depression, having considered the Claimant’s evidence given in her impact statement and the very limited medical information referred to, I do not find that the Claimant has met the threshold to establish that these conditions meet the two-limb test of being substantial and having a long-term adverse effect on her ability to carry out normal day-to-day activities. As mentioned in my findings of fact, much of the reference to depression and anxiety seemed to be around the time of the Claimant’s grievance and also connected to the passing of her dogs. I am not therefore satisfied that they met the definition of long term. As to her health anxieties, it is understandable that having suffered a suspected TIA that the Claimant would have anxieties regarding her health, but I was not satisfied that I was provided with sufficient evidence to conclude at the time that these were or would likely be long term. I therefore do not find the Claimant to be disabled in respect of conditions listed at paragraph 12 f-g.

**Employment Judge Wright
26 February 2026**

