



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 8002569/2025**

**Held in Glasgow on 2 April 2026**

**Employment Judge S MacLean**

**Mr S Sherry**

**Claimant  
In Person**

**Arnold Clark Automobiles Limited**

**Respondent  
Represented by:  
Ms I Moretti -  
Solicitor**

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that in terms of section 6 of the Equality Act 2010, the claimant was not a disabled person in May 2025.

### **REASONS**

#### **Introduction**

1. The respondent is an automotive retailer. The claimant has been employed by the respondent since February 1992 and currently holds the position of Master Technician.
2. In the claim form presented to the Tribunal on 24 October 2025, the claimant asserts that he is a disabled person within the meaning of the Equality Act 2010 by reason of anxiety and panic attacks. He complains of a failure to make reasonable adjustments and discrimination arising from disability. The alleged discriminatory acts are said to have occurred in May 2025. The claims are resisted by the respondent.
3. At a case management preliminary hearing on 4 February 2025, an Employment Judge issued orders requiring the claimant to provide copies of his medical records relating to his mental health from 2023 to date, together with an impact statement setting out the adverse effect of his impairment on his ability to carry out normal day-to-day activities. The impact statement was to address, in particular, the nature, extent, timing and duration of that effect for the period May 2024 to May 2025, taking into account any reasonable

coping or avoidance strategies; any medication prescribed during that period; and the effect on normal day-to-day activities if that treatment or medication had not been provided.

4. The claimant complied with those orders. By correspondence dated 4 March 2026, the respondent advised that, having considered the impact statement and medical records, it did not accept that the claimant was disabled for the purposes of section 6 of the Equality Act 2010 by reason of anxiety and panic attacks at the time of the alleged discriminatory acts.
5. This preliminary hearing was listed to determine the claimant's disability status. The claimant appeared as a litigant in person. I explained the purpose of the preliminary hearing and the issues to be determined. The claimant gave evidence and was cross-examined. I was referred to a file of documents. Ms Moretti provided the claimant with a copy of her outline submissions, to which he was given the opportunity to respond. I reserved judgment.
6. I set out below the essential facts as found for the purpose of determining the issue of disability status. Matters raised in submissions are addressed, where relevant, within the sections dealing with the facts, the law, and the application of the law to those facts.

### **Findings in fact**

7. The claimant commenced employment with the respondent in 1992, based in Greenock. He was familiar with the role, the location and his colleagues.
8. In 1998 the claimant was promoted to the post of Workshop Controller at Kilmarnock Road. He became anxious and returned to his previous post in Greenock after three days.
9. The claimant worked in an unpromoted role at Elderslie for one month. His anxiety increased when it was suggested that the move might become permanent.
10. In spring 2009 the claimant was promoted to Workshop Controller at Greenock. In March 2010 the claimant was admitted to hospital overnight with high blood pressure.
11. In September 2010 the claimant experienced stress at work, related to balancing work and childcare. He was absent from work for four weeks due to "nervous debility" and subsequently returned on a part-time basis for around a year.
12. The claimant was prescribed medication for high blood pressure and anxiety. He continued to take the medication prescribe for high blood pressure.

However, the claimant was reluctant to take anti-depressants. He therefore stopped doing so and developed his own coping strategies such as breathing techniques and mindfulness.

13. Between August 2021 and January 2022, the claimant suffered three family bereavements. He was absent from work for two weeks.
14. Around 24 April 2024 the claimant attended A&E, struggling to breathe and fearing he was having a heart attack. He was discharge with follow up care in the community.
15. The claimant took a pre-agreed sabbatical from 31 May to December 2024. During this period, he travelled abroad with his family and spent time with his wife and mother.
16. The claimant was anxious about his teenage children leaving home for further education.
17. The claimant returned to work on a full-time basis in January 2025. He was settled and content and used coping strategies to manage his condition.
18. In February 2025 the claimant damaged a workshop equipment. At a disciplinary hearing the claimant apologised and explained that he had been under stress that day.
19. On or around 22 April 2025 the claimant became anxious when informed that he would be required to work temporarily at Linwood. Although he agreed to attend, he experienced panic attacks while travelling. He, did not sleep well, had sweats and ruminated about his ability to do his job. He sought to manage his symptoms using breathing techniques, visualisation and grounding strategies.
20. On 15 May 2025 the claimant was advised that the move would be permanent with effect from the following day. The claimant suffered a panic attack. He was crying, struggling to breathe, was sent home and later expressed suicidal thoughts to his wife. He was prescribed anti-anxiety medication and issued with a fit note.
21. The claimant received counselling but continued to experience symptoms of anxiety, panic attacks and restlessness. His sleep was disturbed. He woke frequently and struggled to return to sleep. He also experienced poor concentration, low mood and lacked motivation.
22. The claimant remained absent from work and was referred to occupational health. The claimant remained temporarily unfit for work but the assessment was that he would return within one to three months with the appropriate intervention and support.

**Observation on evidence**

23. I considered that the claimant gave his evidence in a straightforward and measured manner. He explained that he perceived a stigma attached to experiencing poor mental health in a male-dominated industry. Over a number of years, he has developed coping strategies to manage his anxiety.

**Deliberations**

24. Section 6 of the Equality Act 2010 requires me to determine whether, at the material time (May 2025), the claimant had:
- a. a physical or mental impairment;
  - b. which had a substantial; and
  - c. long-term adverse effect on his ability to carry out normal day-to-day activities.

The burden of proof lies on the claimant.

25. I was satisfied on the claimant's evidence that he has a history of anxiety and panic attacks and that he experiences heightened anxiety in new situations.
26. In May 2025, the claimant was experiencing panic attacks, disturbed sleep and poor concentration. He was signed unfit for work and prescribed medication for anxiety. The respondent submitted that medical evidence is important in establishing the existence of a mental impairment. I accepted the claimant's evidence that, on the occasions described, he was anxious and experienced panic attacks. I was satisfied that, at that time, the claimant was suffering from a mental impairment.
27. I then considered whether that mental impairment had a substantial adverse effect on the claimant's ability to carry out normal day-to-day activities at the relevant time.
28. "Substantial" means more than minor or trivial. The focus is on what the claimant could not do, or could do only with difficulty, rather than on what he could do.
29. The claimant described panic attacks involving breathlessness, crying, suicidal ideation, disturbed sleep, difficulty returning to sleep, poor concentration and an inability to tolerate changes in work location. These symptoms are capable of affecting normal day-to-day activities such as sleeping, concentrating, attending work and coping with ordinary workplace demands. The respondent submitted that the claimant's impact statement was subjective, largely workplace-focused, and unsupported by medical evidence. I accepted the claimant's evidence, which was supported by a

contemporaneous note in his medical records, that the adverse effects in May 2025 were more than minor or trivial.

30. I therefore turned to the question of whether the adverse effect was long-term. An effect is long-term if it has lasted, or is likely to last, at least 12 months, or if it is likely to recur.
31. The evidence showed episodes of anxiety or stress-related illness in 1998, 2010, 2020, April 2024 and April–May 2025, with periods of apparent improvement in between, including a settled return to work in January 2025. These episodes coincided with significant life events, including promotion, childcare responsibilities, bereavement and children leaving home. The evidence suggested that the claimant’s coping strategies included avoiding promoted posts, maintaining a balance between work and family life, and seeking a supportive network. I was not satisfied that the earlier episodes had a substantial adverse effect on the claimant’s day-to-day activities such that the impairment could properly be characterised as one that was likely to recur.
32. In May 2025, the impairment had not lasted for 12 months. Although I accepted that at that time the claimant had a mental impairment with a substantial adverse effect on his day-to-day activities, the prognosis was that his condition was likely to improve with appropriate intervention and support. At that stage, it was not envisaged that the adverse effects would last for 12 months. I recognise that this was not, in fact, how events later unfolded. However, my assessment is necessarily retrospective and must be based on the position as it stood in May 2025, not on the claimant’s condition at the date of the hearing.
33. Taking these matters together, I concluded that, in May 2025, the claimant was not a disabled person for the purposes of section 6 of the Equality Act 2010.

**Date sent to parties**

23 April 2026