Neutral Citation Number: [2026] EAT 88

Case Nos: EA-2024-000530-AT, EA-2024-000839-AT
EA-2024-000842-AT, EA-2024-000847-AT

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 16 June 2026

Before:

ANDREW BURNS KC
DEPUTY JUDGE OF THE HIGH COURT

- -

Between:

MRS S STEPHENS

Appellant

- and –

THE HEALTH AND SAFETY EXECUTIVE

Respondent

- -

The **Appellant** appeared **in person**
Tom Brown (instructed by TLT Solicitors) for the **Respondent**

APPEAL FROM REGISTRAR'S ORDER
Hearing date: 3 June 2026

- -

JUDGMENT

Practice and Procedure – Jurisdictional/Time Points

The Claimant brought claims in the Employment Tribunal for disability, age and sex discrimination. Following case management decisions refusing postponement of the final hearing and permitting a witness to give evidence by CVP, the claimant's representative withdrew the claim as part of an ACAS conciliated settlement. The Tribunal dismissed the proceedings on withdrawal. The Claimant brought four appeals but all were presented out of time. The Registrar refused extensions of time, and the Claimant appealed those refusals.

She argued for extending time as delay was explained by ill health and personal circumstances. The EAT considered the relevance of the underlying merits, including where a binding COT3 settlement may render the proposed appeals academic.

Held:

The Claimant had not demonstrated exceptional circumstances justifying an extension. Her medical evidence did not establish that her health conditions prevented timely appeals, applying *J v K* [2019] IRLR 723, and her status as a litigant in person did not excuse non-compliance, following *Muschett v London Borough of Hounslow* [2009] ICR 424. Taking into account the merits when considering extension of time, the proposed appeals were either very weak or bound to fail, and in any event were likely rendered academic by a binding COT3 settlement (*Aziz v Bethnal Green City Challenge Co* [2000] IRLR 111).

ANDREW BURNS KC, DEPUTY JUDGE OF THE HIGH COURT:

Background

1. These are appeals from four orders of the EAT Registrar each refusing an extension of time within which to properly institute the appeal. I refer to the parties as the Claimant and Respondent as they were before the Employment Tribunal ("the ET") and refer to the appeals as "Appeals 1 to 4".

2. The Claimant's four appeals are all out of time and she applies in each case for an extension of time. Those extensions have been refused by the Registrar and so she appealed to the judge. Each appeal is by way of rehearing and I have determined the matter afresh in each case.

3. The Claimant was employed by the Respondent as a recruiter from July 2021 to April 2022. She had 10 years' experience as a recruiter following a previous successful career in health club management. She resigned from the Respondent following sick absence with anxiety having made requests for reasonable adjustments related to ADHD and had an unsuccessful grievance. She brought claims for disability, age and sex discrimination in July 2022.

4. The Claimant represented herself before me in an impressive manner. At times she found the appeal hearing a challenge and struggled with anxiety. She made clear and well-structured submissions particularly in her skeleton argument and she referred me to the applicable case law in her bundle of authorities. The Claimant explained to me that her ADHD adversely impacts her concentration during video meetings and with lengthy or complex tasks at home and at work. She has good days and bad days. She was also very sensitive to criticism and negativity and did not deal well with workplace disputes. She has been able to compile numerous appeal documents and correspond with the EAT and the Respondent over these appeals and her preparation for this hearing. She is an intelligent and capable person who is struggling with a number of long-term conditions.

Progress toward the ET hearing and the Withdrawal of the Claim

5. At the ET the Claimant was represented by her husband. They prepared for a final hearing in person scheduled to start on 11 March 2024. A few weeks before the hearing the Claimant discovered

that her former manager (who was heavily pregnant) had the ET's permission to give evidence by CVP video link. She found this very distressing as she wanted everyone to attend in person. She objected but the ET refused to change its case management direction (the subject of Appeal 2). She applied to postpone the hearing, submitting her GP 'fit-notes' which said that she was unfit for work. On 27 February 2024 the ET refused to postpone (the subject of Appeal 3) on the grounds that they could make adjustments for the Claimant at the hearing. The ET invited the Claimant to submit medical evidence if she was medically unable to attend a hearing.

6. The ET refused a second postponement application on 5 March 2024 on broadly the same grounds (the subject of Appeal 4). The Claimant said that she was very unwell and could not face the hearing. Her husband negotiated with the Respondent through ACAS. He had serious concerns about a possible award of costs against the Claimant if the claim proceeded and thought that the hearing could be harmful to her health. He decided that it was best if she agreed to a 'drop hands' settlement. The Claimant confirmed to me that her husband was her representative at this time and believed he was acting in her best interests.

7. The Claimant's husband contacted the ET with a letter headed "withdrawal and automatic dismissal" saying that they had 'been settled through ACAS' and asking for the claim to be dismissed under rule 52 of the ET Rules of Procedure 2013. The letter was signed by him as the Claimant's lay representative and sent by email on 8 March 2024 at 8.53 am. This was followed by an email from ACAS at 11.14 am confirming the parties had settled by conciliation.

8. The Claimant sought to withdraw this withdrawal on 11 March 2024 saying "my representative withdrew my claim without my permission as he was coerced into this action by pressure from the respondent's legal representative, the tribunal office and ACAS". She went on to say that the Respondent offered a 'hands down' agreement and threatened a costs application.

9. The Claimant now accepts that her husband had her permission to represent her and was not coerced, but was concerned for her well-being if the hearing went ahead, worried by what ACAS had

advised (particularly an example of a claimant self-harming due to the stress of a hearing) and felt overwhelmed (as did she) by the pressure of the situation. She said he "felt forced to withdraw against my wishes". At this stage it appears that her representative had ostensible authority to bind the Claimant. Applying the test in *Freeman v Sovereign Chicken* Ltd [1991] ICR 853 it is likely that the COT3 settlement will be binding on the Claimant if she tries to progress these appeals or the underlying claims.

10. The ET seem to have drawn up the order dismissing the claim following the withdrawal and COT3 settlement but before the Claimant's 11 March 2024 email reached the file. The judgment dismissing her claim on withdrawal (which is the subject of Appeal 1) was sent to the parties on 18 March 2024. It said: "The proceedings are dismissed following a withdrawal of the claim by the claimant." The Claimant complained and was told by the ET that if she was unhappy with it, she should appeal. It is clear from her 11 March letter that she was indeed unhappy with the outcome. However she did not appeal immediately. I must explore her reasons for delay in some detail.

The Appeals

11. Appeal 1 (EAT 2024-000530-AT) was received on 2 May 2024 and was against the "withdrawal of claim due to failure of ET to grant postponement of tribunal due to ill health although this was requested in time and medical evidence was provided twice, failure to provide reasonable adjustments to claimant and unfair bias towards the respondent". The judgment was sent to the parties on 18 March 2024 and so the last day for submitting an appeal was 29 April 2024. Therefore, the appeal was 3 days out of time.

12. Appeal 2 (EAT 2024-000839-AT) was received on 9 July 2024 and is against the decision of Judge Slater in letter dated 2 February 2024 concerning the Claimant's objection to a witness being permitted to give evidence by CVP. The judge noted that the Claimant did not object until 18 January 2024 and gave no explanation for the delay. The ET held that the Claimant would not be put at a disadvantage in questioning the witness by video link and if she had medical evidence to show a

disadvantage, she could submit it to the ET. The ET noted that if the witness was not permitted to give evidence by CVP due to the advanced stage of her pregnancy, it could result in an adjournment. The last day for submitting an appeal was 15 March 2024. The appeal was 116 days out of time. The appeal grounds in summary are that the ET failed to consider that the Respondent's solicitors emailed the Claimant directly about the witness needing to give evidence by CVP rather than to her husband, who was her representative at the time. The Claimant says this should have been considered by the ET in assessing why the Claimant was late in objecting.

13. Appeal 3 (EAT 2024-000842-AT) was received on 9 July 2024 and was against the decision of the ET (EJ Ross) sent to the parties on 27 February 2024. The ET refused the Claimant's postponement application as it was made without medical evidence, noting that the ET would be able to make reasonable adjustments for the Claimant at the hearing. The ET said that the Claimant could reapply with medical evidence. The grounds of appeal are essentially that the ET made decisions about the Claimant's capabilities to question a witness by CVP without considering that she had a neurodiverse condition. The last day for submitting an appeal was 9 April 2024. The appeal was 91 days out of time.

14. Appeal 4 (EAT 2024-000847-AT) was received on 10 July 2024. It was from the decision of the ET (EJ Ross) sent to the parties on 5 March 2024 refusing for the second time to postpone the hearing. The ET said the fact that a witness was attending remotely was insufficient to postpone a 7-day hearing for well over a year in the absence of any medical evidence explaining how this position disadvantaged the Claimant. The ET again invited the Claimant to submit medical evidence. The last day for submitting an appeal was 16 April 2024. The appeal was 85 days out of time. The Claimant's grounds largely overlapped with those on her other appeals.

15. On 17 July 2024, the EAT notified the Claimant that her four appeals were out of time and invited applications to extend time. The Registrar determined those applications against the Claimant and refused to extend time in each of them by orders dated 20 February 2025.

16. Rule 3 of the Employment Appeal Tribunal Rules 1993 (as amended) states that any Notice of Appeal should be lodged within 42 days of the date the written reasons for the judgment, or an order or decision of a tribunal was sent to the parties. The Claimant accepts that all her appeals are late and out of time.

Claimant's Application to Extend Time

17. The Claimant relies on a number of factors as her explanation for the delay and the exceptional circumstances for seeking an extension of time. They are in summary:

(a) ADHD, long-term anxiety, depression, menopausal symptoms and other health conditions;

(b) acute mental ill-health having been signed off work since December 2023;

(c) family caring responsibilities following her mother's accident;

(d) mental health problems affecting her lay representative (her husband) in March 2024; and

(e) being a litigant in person.

18. It is right that the Claimant is and was a litigant in person and she says this is "extremely overwhelming for someone with disabilities". She has been unwell and signed off work since December 2023 and receives Employment Support Allowance. In late 2023 and until April 2024 she was caring for her elderly mother who had a serious accident on 24 November 2023 breaking her hip and wrist. The Claimant had to visit her daily for 2 weeks and provided 24-hour care following her discharge (and so had no Wi-Fi access).

19. The Claimant has had ADHD, depression and anxiety from an early age but was only formally diagnosed in 2022 by Dr Rogerson, Consultant Psychiatrist (with moderate to severe ADHD). In early 2024 while coping with her mother's recovery, her family and her health conditions, she said she needed more time to process her appeal. She apologised for not understanding the 42-day time limit

for appealing. She said that she felt stronger at the end of April 2024 as her mother was better and presented Appeal 1. That appeal mentioned her challenges to the decisions in Appeals 2, 3 and 4 but did not attach those decisions to the Notice of Appeal or set them out as separate appeals. She said that she made slow progress in starting to learn the legal processes and after submitting Appeal 1 on 2 May 2024, she was then 'exhausted' before submitting the others in July 2024.

20. In oral submissions the Claimant indicated that the late appeals in Appeals 2, 3 and 4 was because she was told by the EAT on 4 July 2024 that if she wanted to appeal against other orders or decisions she needed to attach each of them to Notices of Appeal. She was confused as to what decisions she was appealing and tried to get advice. She then lodged her three other appeals on 9 and 10 July 2024.

Respondent's Objections

21. The Respondent contends that the Claimant has not given a full and honest explanation for the delay in accordance with paragraph 3.5.5 of the EAT Practice Direction 2024. It says that there is an absence of medical evidence to show that the Claimant's ill health affected her ability to understand and work on her appeals in early 2024. It accepts that the Claimant had caring responsibilities but submits that the evidence does not show that they prevented the Claimant from submitting an appeal.

22. The Respondent says that it is significant that the Claimant was able to lodge Appeal 1 by 2 May 2024 and that all Appeals could have been submitted then. It says the Claimant was able to correspond at length with the ET on 18 January 2024, 5 February 2024 and 20 February 2024 in relation to the ET's decision permitting the witness to give evidence by CVP and that she or her representative could have presented Appeals 2, 3 and 4 during this period. The Claimant was supported by and represented by her husband until March 2024 and said that there was no explanation about why he could not assist with the appeals.

Legal Principles

23. The EAT must take into account the overriding objective in Rule 2A of the EAT Rules 1993 to deal with cases justly. That includes ensuring that parties are on an equal footing and that, so far as practicable, the case is dealt with proportionately to the issues. Adhering to time limits is part of the overriding objective in that it enables the EAT to deal with all cases justly and helps reduce delay and administrative burden. The ET and the EAT must make reasonable adjustments to their processes where it is reasonable to take steps to prevent any substantial disadvantage affecting disabled people compared to others.

24. Paragraph 3.5.1 of the EAT Practice Direction states an extension of time to submit a Notice of Appeal will only be granted in "exceptional circumstances" and paragraph 3.5.6 lists matters which are usually not good excuses.

25. Where the Claimant relies on a medical explanation the starting point is whether the available evidence shows that he or she was indeed suffering from ill-health at the time in question (**J v K** [2019] IRLR 723). Such a conclusion will usually require independent medical evidence - preferably a medical report directly addressing the question; but potentially through other medical evidence such as GP records. If that question is answered in the applicant's favour, the next question is whether the condition in question explains or excuses (possibly in combination with other good reasons) the failure to institute the appeal in time. Mental ill-health can be of many different kinds and degrees, and the fact that a person is suffering from a particular condition (such as stress or anxiety) does not necessarily mean that their ability to take and implement the relevant decisions is seriously impaired.

26. The EAT in such cases often takes into account evidence that the applicant was able to take other effective action and decisions during the relevant period (**O'Cathail v Transport for London** [2012] IRLR 1011) although an ability to function effectively in some areas does not necessarily demonstrate an ability to take and implement a decision to appeal. In **O'Cathail** the Court of Appeal upheld the refusal of the EAT to grant a one-day extension even though the appellant was disabled and had a panic attack on the final day for submission of the appeal. If the delay was caused by the ill-health

and provides a good excuse, justice will usually require an extension, unless the delay is long. The appellant is not the only party whose interests have to be considered.

27. In **Palihakkara v The English Sport Council** [2023] EAT 27 at para 44 the EAT took into account when considering whether to extend time the fact that the claimant was able to identify and articulate her legal complaints in correspondence.

28. A litigant in person is expected to be aware of the time limits. Litigants in person are not held to a different standard to legally represented parties in relation to extensions of time (**Muschett v London Borough of Hounslow** [2009] ICR 424).

29. An extension of time can be granted under rule 37(1) of the EAT Rules 1993 in accordance with the guidance in **United Arab Emirates v Abdelghafar** [1995] ICR 65 and its recent interpretation in **Ridley v HB Kirtley** [2025] ICR 441. There is a distinction between a Notice of Appeal lodged within time but with documents missing and where nothing is lodged within time. An extension of time is a matter of judicial discretion, to be exercised in accordance with reason and justice, weighing all the relevant factors. An extension is an indulgence and not a right. The EAT expects a full and honest explanation for the delay and will consider whether there are circumstances which justify granting an extension of time. The EAT must consider the explanation for the delay and whether it provides a good excuse for the default and whether there are circumstances that justify the EAT taking the exceptional step of granting an extension of time. The absence of a good excuse for the default is not necessarily fatal to the grant of an extension (**Jurkowska v Hlmad Ltd** [2008] ICR 841) as there may be some other factor which gives an exceptional reason to extend time.

30. Although it may be inappropriate to hold a mini-hearing of the merits of the appeal on applications for an extension of time, the merits are sometimes important. As Sir Christopher Staughton commented in **Aziz v Bethnal Green City Challenge Co** [2000] IRLR 111 if it is plain that the appeal has no prospect of success, that must be a matter which should be taken into account. There can be no point in giving an extension of time for an appeal which is bound to fail.

31. In the years since **Aziz** the EAT has become well used to carrying out a preliminary investigation of the merits at an early stage to assess whether an appeal is hopeless. All appeals must go through the sift process in rule 3(7) of the EAT Rules 1993. Where it appears that a notice of appeal discloses no reasonable grounds for bringing the appeal, the appellant is notified that (subject to rule 3(10)) no further action shall be taken on the appeal. There is a right to a short hearing before a judge under rule 3(10) to assess whether the appeal has reasonable grounds (unless the appeal is assessed at the sift stage as totally without merit). The respondent does not usually attend this hearing and unrepresented appellants sometimes have assistance from *pro bono* representatives under the ELAAS scheme.

32. It would not be in accordance with the overriding objective for the EAT to extend time for bringing an appeal only for that appeal to be found at the sift stage (likely many months later due to unavoidable delays in the appeal system) to be hopeless or totally without merit. That would be an unjustified waste of time and resources both for the EAT and the parties to the appeal. It could also give false hope to an appellant that his or her appeal would be heard at a full hearing, an extension of time having been granted. Where an appellant appeals against a Registrar's order he or she is entitled to a hearing before an EAT judge who is in a very similar position in assessing the merits as a judge sitting in a short hearing under rule 3(10) of the EAT Rules 1993. Therefore there would be no denial of justice if hopeless cases were not granted extensions of time – either by the Registrar on the papers (in a way similar to the assessment under rule 3(7)) or by an EAT Judge at a hearing (in a way similar to a rule 3(10) hearing).

33. In those circumstances it is important for the EAT, to follow the guidance in **Aziz** and assess if it is plain that an appeal has no prospect of success. If so, it must take that into account when considering an application to extend time and will heavily weigh against an extension of time. This is not an opportunity to debate the merits in arguable cases. Parties should avoid lengthy or complex arguments about the merits of appeals in extension applications and only address the merits in plain and obvious cases. If an assessment of the merits requires a mini-trial then it is likely to be arguable

and not an appeal with no reasonable prospects of success.

Appeals 1 -4: Explanation

34. The fact that the Claimant was a litigant in person is not itself a good explanation for delay as they are expected to meet EAT time limits. The main explanation for the failure to institute the appeals in time is the Claimant's ill health and home circumstances. I accept that this is a factor to take into account, but I must consider whether the medical evidence supports that as a reason. The mere fact that the Claimant was signed off work since December 2023 and receiving Employment Support Allowance does not show that she was prevented from submitting an appeal.

35. I do have medical evidence that she had ADHD or other medical conditions and was taking medication throughout the relevant time. However, that does not show the extent to which her conditions hindered her (if at all) in bringing an appeal in early 2024. Her medical records do not have any entries showing that the Claimant was suffering from a particular disadvantage in early 2024. Her ADHD is recorded from 17 December 2021 and her anxiety from 27 March 2020. The medical reports from early and mid-2023 indicate that her ADHD had improved following medication. There is no report or record showing the deterioration that the Claimant relies on in early 2024. The Claimant attended her GP for other matters in early 2024 (for example, suffering an ear condition in February 2024) but the GP notes do not mention ADHD, stress or anxiety during any of these entries.

36. Taken as a whole the medical records show that the Claimant was attending her GP during the relevant period but not making any particular complaint which would show a real difficulty in submitting an appeal. The Claimant orally referred to a medical report by Dr Campus dated 11 June 2024, but that report was not submitted to the EAT and in any event the matters that she referred to did not specifically address any functional difficulty with documents or concentration in early 2024.

37. From this I conclude that the Claimant's health may have been a background contribution to the delay but does not provide a good or complete explanation for it. She was well enough to

correspond in detail with the ET. I do not accept the distinction that the Claimant tries to draw between her ability to engage with the ET and the EAT. She was supported by and represented by her husband until March and could have submitted Appeals 2, 3 and 4 with his assistance.

38. It is not uncommon for people with disabilities similar to the Claimant to bring appeals in the EAT and many others can face busy periods and acute caring responsibilities. The statutory time limit affords 42 days in order to give a lengthy period to those who need time to appeal. Even if the Claimant's health conditions amounted to a disability, I do not consider that it put her at a substantial disadvantage compared to non-disabled persons, such that the EAT should extend time for her as a reasonable adjustment (particularly having regard to the guidance in **J v K**). I do not believe it would be a reasonable step to extend time in any event.

39. I have considered the Claimant's health conditions together with the other factors, principally her care responsibilities for her elderly mother. Although these were acute in late 2023, they were reducing in early 2024 as her mother was recovering from her accident. The Claimant says that her mother had made a 'full recovery' by the end of April. The daily visits and 24-hour care (and lack of Wi-Fi) came before the relevant period.

40. While the mother's poor health and the Claimant's care responsibilities do provide some explanation for delay in January and February 2024, at this time the Claimant was represented by and had the support of her husband as her lay representative. The Claimant says that her husband was ill but there is no medical evidence about that. He was plainly fully engaged and not ill between January and March 2024 when Appeals 2, 3 and 4 could have been submitted. On the material before me, it appears that he was able to assist her to appeal at the relevant time.

41. The Claimant's husband understandably did not assist with Appeal 1 as he decided that it was in the Claimant's interests to withdraw the claim due to the stress and anxiety she was facing. He had been worried by advice given by ACAS about the potential for costs and the possible adverse effects on a claimant's mental health. He decided to settle the claim. In his statement he says that the

Claimant did not instruct him to settle but it is accepted that he was her representative and so he had ostensible authority to bind her to a settlement. I do not accept that he did not realise that he was entering into a full and final settlement on her behalf. That was plain. I do not think that the fact that her husband was her representative provides a good excuse for not appealing in time.

42. I accept that the Claimant was busy and distracted by everything that was going on and was someone who was prone to procrastination. The Claimant waited until the EAT advised her in July that she needed to submit each of the decisions that she wished to appeal. It is notable that she was able to act within a few days once the EAT advised that Appeal 1 seemed to be a rolled-up appeal against various decisions. Overall, I am not satisfied that the Claimant's explanations taken in combination amount to a good excuse for her delay – particularly the more significant delay in Appeals 2 - 4. I must now decide whether to exercise my discretion to extend time.

Appeals 1-4: Discretion

43. I have had regard to all the circumstances including the length of and circumstances of the delay. None of the delays are minimal. The delay in Appeal 1 is of 3 days but **Mulumba v Partners Group (UK)** [2026] EWCA Civ 30 is an example of a delay of just 1 day by a litigant in person suffering from stress and whose general medical evidence did not specifically explain the delay. The Court of Appeal upheld the EAT's refusal to extend time. In the present case the Claimant practically had more than the 42 days to appeal as she knew by 11 March about the COT3 settlement and the withdrawal. She emailed the ET and the EAT. She could have appealed promptly when she received the judgment on 18 March.

44. The Respondent says this is a plain and obvious case in which the **Aziz** guidance applies. Mr Brown submits that an extension of time would be pointless as the appeals are hopeless and academic as the Claimant entered into a binding COT3 settlement of her claim.

45. The Claimant accepts that the ET received what appeared to be a binding settlement and withdrawal letter from her representative and received ACAS confirmation. I asked her what arguable

error of law the ET committed when accepting the withdrawal and dismissing the claim. She could only point to her previous correspondence about the postponement but that did not undermine or impugn the settlement in any way. She says that she did not understand that the withdrawal was binding at the time. The Claimant says that her husband (her representative) kept the withdrawal from her to protect her and by the time she objected the claim had been dismissed.

46. **Khan v Heywood & Middleton Primary Care Trust** [2006] EWCA Civ 1087 held that once a claim is unequivocally withdrawn, the ET has no jurisdiction to revive it. The test in **Campbell v OCS Group UK** [2017] ICR D19 is that a withdrawal must be clear, unequivocal and unambiguous. If there is material that puts the ET on notice that the decision to withdraw the claim was ill-considered or irrational or other good grounds for suspecting that dismissal may not be in the interests of justice, the ET should make enquiries before dismissing the claim.

47. The Claimant's Grounds of Appeal do not suggest any challenge about whether the withdrawal was clear and unambiguous. They do not raise any other grounds for doubting the legitimacy of the ACAS settlement. Rather the appeal is that the ET "discriminated against the claimant refusing reasonable adjustments in favour of the respondent's witness" and by "refusing to postpone the hearing despite a medical fit note". The appeal appears to be hopeless on a preliminary assessment as it simply does not engage with the correct test.

48. There has been a short delay in Appeal 1 and I have taken into account the Claimant's explanation concerning her health and other circumstances. I also taken into account that it would be pointless to extend time on Appeal 1 where the appeal is hopeless. My conclusion is that the circumstances do not justify the exceptional step of extending time.

49. Appeal 2 is against a case management decision refusing to revoke a direction permitting a witness who was pregnant to give evidence by CVP. It is long out of time. Appeals 3 and 4 raise a similar point about the ET's refusal to adjourn in light of the objections to the witness giving CVP evidence. All these appeals are very substantially out of time. There is no good explanation for the

Claimant (with the assistance of her husband and representative) failing to appeal promptly at the time instead of waiting months until getting assistance from the EAT in July.

50. The merits of these three appeals overlap. They are case management decisions. An ET has a wide discretion in making case management orders and the EAT can only interfere in clear cases where the ET exercised its discretion under a mistake of law, or disregard of principle, or under a misapprehension as to the facts or in a way that is perverse (so called **Wednesbury** grounds). The ET noted in each case that the Claimant had not produced medical evidence to support her applications and gave her the opportunity to do so. The prospects of success in those appeals are so weak that it is appropriate to take them into account coupled with the fact that the appeals are academic in light of the binding COT3 settlement agreement and dismissal on withdrawal.

51. Appeals 3 and 4 are the first and second refusal of a postponement application. They are subject to the same wide margin of case management discretion. An appeal needs to show arguable perversity. Postponing a 7-day hearing would have resulted in a hearing being delayed to late 2025 which would have prejudiced both parties and impacted the ET's list. The only medical evidence was a fit note which stated she was unfit for work. This is generally insufficient in the ET. The ET reminded the Claimant that for a postponement on medical grounds at a late stage the Claimant required some medical evidence about her condition, its prognosis and when she would be well enough to give evidence. In reapplying for a postponement with no sufficient medical evidence, the Claimant was almost bound to have it refused by any reasonable ET properly directing itself.

52. I therefore take into account that Appeals 2, 3 and 4 appear to be very weak and rendered academic on the merits by the COT3 settlement. Taking everything into account, the merits look hopeless and there are no exceptional circumstances to extend. The time limits in Appeals 2, 3 and 4 should not be extended.

53. For these reasons I refuse the appeal against the Registrar's orders, refuse to extend time for the four notices of appeal and dismiss the appeals on that basis.