EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Nos: 8000986/2025 & 8001943/2025 (combined claims)

Held in Edinburgh in person on 27 March 2026

Employment Judge McCluskey

Mr A Logan	**Claimant** **In person**
Diligenta Limited	**Respondent** **Represented by:** **A Johnston** **Counsel**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that:

The claimant was a disabled person for the purposes of the Equality Act 2010 in the relevant period (21 October 2024 – 4 August 2025) as a result of Essential Tremor.

The claimant was not a disabled person for the purposes of the Equality Act 2010 in the relevant period (21 October 2024 – 4 August 2025) as a result of General Anxiety Disorder.

REASONS

Introduction

1. This public preliminary hearing was listed to determine whether the claimant was disabled at the relevant time for the purposes of section 6 of the Equality

Act 2010 (EqA). The claimant relies on two impairments – Essential Tremor and Generalised Anxiety Disorder.

2. The claimant gave evidence. No further witnesses were called.

3. There was a joint bundle of productions extending to 382 pages. The bundle included the claimant's disability impact statement (pages 234-264).

4. The relevant period when deciding whether the claimant was disabled in terms of section 6 EqA was from 21 October 2024 to 4 August 2025. This was the period of the claimant's employment with the respondent.

Findings in fact

5. The Tribunal made the following essential findings in fact, necessary to determine the issue of disability status.

Essential Tremor

6. The claimant first experienced a tremor in his hands when he was about 14 years old. He has had the tremor ever since.

7. On 13 January 2023 the claimant went to his GP. He reported that he was concerned about a longstanding tremor in both hands which was getting worse. His GP made a request for a referral to Neurology. The GP entry records that the claimant had a 'longstanding tremor in both hands which is progressively worsening. It is now moving up his arms' and that 'He can struggle when eating with a spoon or taking drinks' (page 245).

8. The claimant was diagnosed as having Essential Tremor by a Neurologist, on around 2 March 2023. The Neurologist report includes the following "if he raises his arms, the whole hand tends to shake"; "He is a bit clumsy when using the keyboard and he notices the tremor when eating soup (but he would still order it in a restaurant). He has noticed a slight tremor in the voice (which is not uncommon in essential tremor)"; and "the tremor is made worse by strenuous exercise, coffee and psychological stress" (page 245).

9. In the relevant period (21 October 2024 – 4 August 2025) the claimant experienced the following: Spilling food and drinks is common. Using a spoon, fork or glass without spilling requires immense concentration and often is not possible in social settings. The claimant may avoid soups, salads, peas and other difficult-to-manage foods. He may adopt a two-handed grip or avoid carrying liquids. Handwriting legibility is severely compromised. The claimant may avoid situations requiring handwriting altogether. Whilst typing is

sometimes easier than writing, there is a high rate of typos, missed keys and slow laborious typing. Holding a phone steady for a call or taking a non-blurry photo is challenging. Tasks requiring precision from screwing in a lightbulb to using a screwdriver, sewing or measuring tape is impaired. (page 235 – impact statement).

Generalised Anxiety Disorder

10. The claimant consulted his GP on the following occasions:

    a. On 6 September 2007 where the entry includes "very stressed - "recently out of employment blaming employer". (page 241)

    b. On 19 September 2007 where the entry includes "redundant since June ...scoring high on anxiety, low on depression". (page 241)

    c. On 28 January 2010 where the entry includes "acute anxiety episode" "emotional and anxious. Keen to go back to work as sees benefit of keeping occupied. No sign major psychiatric illness". His employment with Ryanair ended in January 2010. The claimant believed he had been constructively dismissed. (page 242)

    d. On 24 June 2013, where the entry includes "some anxiety symptoms and mild low mood re ongoing situation". The "ongoing situation" is referred to in the entry as "workplace bullying". The claimant was employed by Vodafone at the time and was suspended from work. (page 242)

    e. On 25 March 2014, where the GP completed a statement of fitness for work which included "I understand that he has been suspended for medical reasons. Following consultation today, I can find no evidence that he is unfit for work and further I feel he would benefit from a return to work". There was no reference to anxiety. (page 243) The claimant remained suspended from Vodafone.

    f. On 22 May 2014, where the entry includes "ongoing concerns re his 'isolation' as he is being 'prevented' from working" "anxious today' The claimant remained suspended from Vodafone (page 243).

    g. On 10 May 2024, when he was certified as unfit to work for two weeks, due to "stress at work". The claimant had been suspended from his role with Centrica on around 3 May 2024.

h. On 23 May 2024, where the GP completed a statement of fitness for work which recorded conditions of “stress at work” and “anxiety”, he was certified as potentially being fit to work taking into account advice that workplace adaptions may be required. The certificate was for 4 weeks. It also recorded “patient’s anxiety significantly worsened with current workplace environment/uncertainty. Would benefit from stable environment and work interaction for mental health”. The claimant was suspended from Centrica at that time. (page 251)

i. On 28 February 2025 when the claimant’s GP wrote a letter “to whom it may concern’ stating: “The above gentleman suffers from Anxiety Disorder. I would be grateful if you could take this into consideration when discussing Alastair’s return to work with reasonable adjustments”. No further details were provided. (page 233)

j. On 23 April 2025 where the GP completed a statement of fitness for work which recorded conditions of ‘anxiety and high blood pressure’, he was certified as potentially being fit to work taking into account advice ‘Is it possible to improve integration into the team? Can you provide work which is more in line with job description. Issues relating to this are causing anxiety’. The certificate was dated 23 April 2025. The GP noted ‘I will not need to assess your fitness for work again at the end of this period’.

11. The claimant raised employment tribunal proceedings against BAE Systems Surface Ships Limited (BAE Systems) in October 2016. He was employed by them from 23 March 2015 to 20 July 2016. There was a final hearing and a judgment issued on 12 January 2018. The judgment recorded that at a case management preliminary hearing “it was agreed that during the claimant’s employment he did not have a disability envisaged by section 6 of EqA”. The claimant’s case was about perceived disability as he had had a short period of absence due to stress. The findings of fact of the Tribunal, recorded in the judgment (at paragraphs 52, 53 & 54) state that during the claimant’s employment with BAE Systems, he “denied any symptoms of psychological ill health’; ‘he had no significant underlying medical conditions”; the findings of an occupational health practitioner were that “there was no evidence of a psychological illness at the time”; and “neither the claimant nor the respondent considered there was any issue of disability”.

12. The claimant did not consult his GP in relation to symptoms of anxiety other than as stated in paragraph 10 above. He did not consult his GP in relation to symptoms of anxiety in the 10-year period from May 2014 to April 2024.

13. The claimant has not at any time discussed obtaining medication for generalised anxiety disorder with his GP. The claimant was not, at any time, prescribed any medication or other treatment for anxiety by his GP.

14. The claimant's employment with the respondent ended on 4 August 2025.

Observations on the evidence

15. This judgment does not seek to address every point made by the claimant. It only deals with the points which are relevant to the issues the Tribunal must consider, to decide if the claimant is disabled in terms of section 6 EqA. If a particular point is not mentioned, it does not mean that it has been overlooked. It is simply because it is not relevant to the issues.

16. The standard of proof is on a balance of probabilities. This means that if the Tribunal considers that, on the evidence, the occurrence of an event was more likely than not, then it is satisfied that the event in fact occurred. Likewise, if the Tribunal considers that, on the evidence, an event's occurrence was more likely not to have occurred, then it is satisfied that it did not occur.

17. The burden of proof is on the claimant to show that he satisfies the definition of disability in section 6 (1) EqA.

18. As an observation the Tribunal noted that on some occasions it appeared that the full GP medical entry had not been provided by the claimant. Rather only an extract or part of an entry had been provided. When asked about this the claimant said that it was for him to decide what medical evidence to produce. Whilst that is correct, subject to the terms of any Tribunal order for disclosure, it is difficult for the Tribunal to assess the medical evidence fully, when the records are produced by the claimant in this way.

Relevant law

19. Section 6(1) EqA provides that a person has a disability if they have 'a physical or mental impairment; and the impairment has a substantial and long-term adverse effect on the person's ability to carry out normal day to day activities.'

20. The statutory definition of 'substantial' in section 212(1) EqA is 'more than minor or trivial'.

21. Supplementary provisions for determining whether a person has a disability are found in Part 1 of Schedule 1 EqA. For example, Schedule 1, paragraph 2 provides that the effect of an impairment is long-term if it has lasted at least 12 months, is likely to last for at least 12 months or is likely to last for the rest of the life of the person. Further if the impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day to day activities, it is to be treated as continuing to have that effect if it is likely to recur.

22. Schedule 1, paragraph 5(1) provides that an impairment is treated as having a substantial adverse effect on the ability of the person concerned if measures are taken to correct it and, but for that, it would be likely to have that effect.

23. Appendix 1 to the EHRC Employment Code states that there is no need for a person to establish a medically diagnosed cause for their impairment. What is important to consider is the effect of the impairment, not the cause — para 7. The statutory approach is a functional one directed towards what a claimant cannot, or can no longer, do at a practical level. It is not necessary to determine a precise medical cause (***Ministry of Defence v Hay*** 2008 ICR 1247 EAT)

24. The statutory 'Guidance on matters to be taken into account in determining questions relating to the definition of disability' (the Guidance) pursuant to section 6(5) EqA does not itself impose legal obligations, but the Tribunal must take it into account where relevant (Schedule 1, Part 2, paragraph 12 EqA).

25. The Guidance at paragraph B1 deals with the meaning of 'substantial adverse effect' and states: 'The requirement that an adverse effect on normal day-to-day activities should be a substantial one reflects the general understanding of disability as a limitation going beyond the normal differences in ability which may exist among people. A substantial effect is one that is more than a minor or trivial effect.'

26. Paragraphs B4 and B5 state that: 'An impairment might not have a substantial adverse effect on a person's ability to undertake a particular day-to-day activity in isolation. However, it is important to consider whether its effect on more than one activity, when taken together, could result in an overall substantial adverse effect. For example, a person whose impairment causes breathing difficulties may, as a result, experience minor effects on the ability to carry out a number of day-to-day activities such as getting washed and

dressed, going for a walk or travelling on public transport. But taken together, the cumulative result would amount to a substantial adverse effect on his or her ability to carry out these normal day-to-day activities.'

27. Paragraph B1 should be read in conjunction with Section D of the Guidance, which considers what is meant by 'normal day-to-day activities'. Paragraph D2 states that it is not possible to provide an exhaustive list of day-to-day activities. Paragraph D3 provides that: 'In general, day-to-day activities are things that people do on a regular or daily basis'. Examples include writing, preparing and eating food, carrying out household tasks and using a computer.

28. The Appendix to the Guidance sets out an illustrative and non-exhaustive list of factors which, if they are experienced by a person, it would be reasonable to regard as having a substantial adverse effect on normal day-to-day activities. This includes difficulty eating; for example, because of an inability to co-ordinate the use of a knife and fork; and difficulty operating a computer, for example, because of physical restrictions in using a keyboard.

29. In ***Goodwin v Patent Office*** [1999] IRLR 4, the EAT held that in cases where disability status is disputed, there are four essential questions which a Tribunal should consider separately and, where appropriate, sequentially. These are:
    a. Does the person have a physical or mental impairment?
    b. Does that impairment have an adverse effect on their ability to carry out normal day-to-day activities?
    c. Is that effect substantial?
    d. Is that effect long-term?

30. The burden of proof is on a claimant to show that they satisfy the statutory definition of disability.

31. In cases such as ***J v DLA Piper UK LLP*** 2010 ICR 1052***, Herry v Dudley Metropolitan Council*** 2017 ICR 610**,** and ***Igweike v TSB Bank plc*** 2020 IRLR 267, the EAT have made it clear that a distinction needs to be drawn between a mental impairment amounting to a disability under the EqA and an adverse reaction to life events (such as anxiety/stress brought on by allegations of misconduct or stress/depression triggered by a close family bereavement).

32. The time at which to assess the disability (i.e. whether there is an impairment that had a substantial adverse effect on the ability to carry out normal day to

day activities) is the date of the alleged discriminatory act (***Cruickshank v VAW Motorcast Ltd*** [2002] ICR 729, EAT). This is also the material time when determining whether the impairment has a long-term effect.

Submissions

33. Both parties provided written submissions and spoke to those at the hearing. The Tribunal carefully considered these during deliberations. It has dealt with the points made in submissions, where relevant, when setting out the facts, the law and the application of the law to those facts in reaching its decision. It should not be taken that a submission was not considered because it is not part of the discussion and decision recorded.

Discussion and decision

Essential Tremor

Does the claimant have a physical or mental impairment?

34. The Tribunal was satisfied from the evidence led by the claimant that he had a physical impairment of essential tremor in the relevant period (21 October 2024 – 4 August 2025).

35. The claimant's evidence was that this was a longstanding condition from around the age of 14. He had reported to his GP in 2023 that it was longstanding and progressively worsening. There is a diagnosis of essential tremor from a consultant Neurologist in March 2023.

Does the impairment have an adverse effect on the claimant's ability to carry out day-to-day activities?

36. The assessment of adverse effect is personal to the claimant. As the EAT in Goodwin observed: "The focus of attention … is on the things that the applicant either cannot do or can only do with difficulty, rather than on the things that the person can do."

37. Paragraph D2 states that it is not possible to provide an exhaustive list of day-to-day activities. Paragraph D3 provides that: 'In general, day-to-day activities are things that people do on a regular or daily basis, and examples include preparing and eating food, writing, carrying out household tasks; and using a computer.

38. The Tribunal's findings in relation to adverse effect are set out in paragraphs 6-9 above. The Tribunal was satisfied that these findings demonstrate that

there was an adverse effect on the claimant's ability to carry out day to day activities as a result of essential tremor in the relevant period.

Is the adverse effect upon the claimant's ability substantial?

39. The Tribunal was satisfied that the adverse effects on the claimant's ability to carry out day to day activities, as identified in paragraphs 6-9 above, were substantial. They were clearly more than minor or trivial.

Is the adverse effect upon the claimant's ability long term?

40. The time at which to assess whether the impairment has a long-term effect is the date(s) of the alleged discriminatory act(s). The relevant period for assessment of disability status was said by the claimant to be throughout his employment ie from 21 October 2024 to 4 August 2025.

41. The Tribunal was satisfied that the substantial adverse effects were long term by the commencement of the relevant period on 21 October 2024. The tremor was in both hands. The claimant's abilities to write, eat, drink, type, use a phone and use tools were being adversely impacted. The adverse effects had been noted in GP records in January 2023 as progressively worsening, rather than improving.

42. For these reasons the Tribunal concluded that the claimant was a disabled person, as a result of essential tremor, in the relevant period.

General Anxiety Disorder

Does the claimant have a physical or mental impairment?

43. The claimant's evidence was that he has had Generalised Anxiety Disorder from 2007 onwards up to and throughout the relevant period (21 October 2024 – 4 August 2025). This did not accord with the medical evidence provided by the claimant.

44. The Tribunal first considered the period 2007 – 2014. The GP extract medical records produced by the claimant showed that in September 2007 he consulted his GP about an episode of anxiety, when he had recently been made redundant. He consulted his GP in January 2010 when he had just resigned from an employer. He consulted his GP in June 2013 when he was suspended by a different employer and in May 2014 about the ongoing suspension. These entries were about specific incidents related to losing a job or the threat of losing a job. There were no GP medical records showing

that the claimant had consulted his GP about anxiety at any other time in the period 2007 – 2014.

45. The claimant's evidence that in the period 2007 to 2014 he had Generalised Anxiety Disorder was not what he had asserted in 2017 in employment tribunal proceedings against BAE Systems. His assertion and the findings in fact from the BAE Systems case were that he did not have any psychological illness and there was no issue of disability.

46. The assertions and findings in the BAE Systems case were directly contrary to the evidence the claimant now gave in this Tribunal. The Tribunal considered both the findings of the BAE Systems case and the claimant's limited consultations with his GP in the period 2007 - 2014 where he referenced anxiety. The Tribunal reminded itself that a distinction needs to be drawn between a mental impairment amounting to a disability under the EqA and an adverse reaction to life events (***J v DLA Piper UK LLP***; ***Herry v Dudley Metropolitan Council***; and ***Igweike v TSB Bank plc***).

47. The Tribunal concluded that the consultations with the GP in 2007 – 2014 were more likely about an adverse reaction to life events such as stress/anxiety brought on by losing his job or the threat of losing his job. This accorded with the claimant's position in the findings in fact from the BAE Systems case in 2017 that he did not have any psychological illness and there was no issue of disability.

48. The Tribunal concluded in the present case that the claimant did not have an impairment of Generalised Anxiety Disorder in the period 2007 – 2014.

49. The Tribunal looked next at the 10-year period from May 2014 to April 2024. No GP or other medical records were produced by the claimant to show that he had consulted with his GP at all in relation to symptoms of anxiety in the 10-year period from May 2014 to April 2024. The Tribunal concluded that the claimant did not have an impairment of Generalised Anxiety Disorder in the period May 2014 to April 2024.

50. Turning to May 2024, on 23 May 2024 the claimant's GP provided a fitness for work certificate which made reference to stress at work/anxiety. The claimant was certified as potentially being fit to work. The claimant was suspended from Centrica at the time. His employment with Centrica came to an end shortly thereafter. There are no other GP entries for 2024.

51. Turning to 2025, the claimant obtained a short to whom it may concern letter from his GP on 28 February 2025 saying that the claimant suffers from anxiety disorder. No further details were provided. On 23 April 2025 the claimant's

GP provided a fitness for work certificate. He was certified as potentially being fit to work. The certificate referred to work in line with the claimant's job description and that issues relating to this are causing "anxiety". The GP recorded that no further assessment for fitness for work was needed at the end of this period.

52. The Tribunal considered carefully the period from 23 May 2024 onwards including the relevant period 21 October 2024 to 4 August 2025. It appeared to the Tribunal that it was more likely than not that consultation with the GP on 23 May 2024 was again about a stressful situation to a life event as the claimant had been suspended by Centrica. The claimant had not consulted his GP since previous adverse reactions to life events about losing his job/threat of losing his job 10 years previously. It is understandable that such life events are stressful and anxious making. A distinction, however, needs to be drawn between such a life event and a mental impairment amounting to a disability.

53. The Tribunal next considered the "to whom it may concern" letter on 28 February 2025. This referred to the claimant suffering from an anxiety disorder. No further details were provided. The letter did not say how long the claimant had been suffering from an anxiety disorder, how long it was likely to last or any difficulties the claimant faced in carrying out day to day activities as a result. The letter was very short.

54. The Tribunal considered what the claimant had said in his disability impact statement and in oral evidence. The claimant's oral evidence was that he had discussed obtaining medication for anxiety with his GP in the period from 2007 to the end of the relevant period (4 August 2025). The difficulty is that there were no GP records produced to that effect. The Tribunal concluded that is likely that such discussions or at least some of them, if they had taken place, would have been recorded by the GP in medical records. Rather the GP medical records, or at least the extracts provided, showed no such discussion on any occasion.

55. The claimant's evidence was that he has had the impairment of Generalised Anxiety Disorder since 2007. As already stated, the Tribunal does not accept that this is the case.

56. From the medical information available, the Tribunal was only able to conclude that the claimant had a mental impairment of anxiety disorder on 28 February 2025 when the GP "to whom it may concern" letter was written.

Is the adverse effect upon the claimant's ability substantial and long term?

57. The relevant period for the purposes of this claim is 21 October 2024 to 4 August 2025. The Tribunal was not satisfied that at the relevant time any effect relied upon by the claimant was long term.

58. Part 1 of Schedule 1 EqA, at paragraph 2 provides that the effect of an impairment is long-term if it has lasted at least 12 months, is likely to last for at least 12 months or is likely to last for the rest of the life of the person.

59. The claimant had a mental impairment of anxiety disorder on 28 February 2025. There was no medical evidence that during the relevant period the anxiety disorder had lasted at least 12 months, was likely to last for at least 12 months or was likely to last for the rest of the life of the claimant. The only medical evidence which the Tribunal had to go on was the short letter of 28 February 2025.

60. What the claimant had written in his impact statement about duration since 2007 and what he said was the substantial adverse effect, (for example difficulties in planning and organisation, decision making and problem solving) was difficult to reconcile, both with the lack of medical evidence and with the inconsistencies between that and the medical evidence. For example, the only other medical evidence after 28 February 2025 was the GP fitness for work certificate on 23 April 2025 which recorded conditions of 'anxiety and high blood pressure'. The claimant was certified as potentially being fit to work. The claimant's concerns were about his integration into the team and being provided with work more in line with his job description. The GP recorded that they would not need to assess the claimant's fitness for work again at the end of the fit note period. The Tribunal concluded that that entry dd not point to an impairment which had lasted at least 12 months, was likely to last for at least 12 months or was likely to last for the rest of the life of the claimant.

61. Accordingly, the Tribunal concluded that whilst the claimant's impact statement asserts that he had an impairment of General Anxiety Disorder from 2007 and throughout the relevant period, which had a substantial adverse effect on his ability to carry out day to day activities, that did not accord with the medical evidence from May 2024 onwards.

62. Part 1 of Schedule 1 EqA, at paragraph 2 also provides that if the impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day to day activities, it is to be treated as continuing to have that effect if it is likely to recur. The Tribunal took a step back to consider the evidence of the claimant in the round. His evidence was that he has had an impairment of Generalised Anxiety Disorder, which has had a substantial adverse effect

on his ability to carry out day to day activities, since 2007. He does not seek to prove a case that any effects had ceased but ought to be treated as continuing as they were likely to recur. Nor was there any medical evidence to this effect.

63. For these reasons the Tribunal concluded that the claimant was not a disabled person, as a result of generalised anxiety disorder, in the relevant period.

Case management

64. A further case management preliminary hearing will be arranged, to include listing the case for a final hearing. Parties will receive a separate notice of hearing.

Date sent to parties 13 May 2026