



EMPLOYMENT TRIBUNALS

PUBLIC PRELIMINARY HEARING

Claimant: Mr Y Kose

Respondent: Amazon UK Services Limited

Heard at: Leeds Employment Tribunal (by remote video)

On: Tuesday 30 June 2026

Before: Employment Judge S Shore

Representation

For the Claimant: In Person

For the Respondent: Mr J England, Counsel

JUDGMENT AND WRITTEN REASONS

The judgment of the Employment Tribunal is that: -

- (1) The claimant did not meet the test of disability under section 6 of the Equality Act 2010 at the time his claims occurred. The Tribunal therefore has no jurisdiction to hear the claimant's claims, which are dismissed in

their entirety.

REASONS

Background

1. The claimant was employed by the respondent as a Fulfilment Centre Associate from 26 November 2022 to 17 January 2025. Early conciliation started on 8 March 2024 and ended on 12 March 2024 [3]. The claim form was presented on 13 April 2024 [4-17].
2. The claimant claims that he was subjected to acts of disability discrimination between 5 December 2023 and 4 January 2024. He asserts that he is disabled because of the mental impairments of panic attacks, anxiety and depression.
3. The respondent denies the claims. It presented its response and Grounds of Resistance on 1 August 2024 [22-34].

The issues

4. I had to determine a single Issue in this case, as set out in the case management order of Employment Judge Shepherd in his dated 31 October 2024, which was sent to the parties on 10 December 2024 [66-73]:

“...to determine whether the claimant was a disabled person within the meaning of section 6 of the Equality Act 2010 at the time of the alleged discriminatory treatment. If the claim or, any part of the claim survives then case management orders will be made leading to the final hearing.”

The law

5. The statutory law is contained in section 6 of the Equality Act 2010:

Disability

(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.

(2) A reference to a disabled person is a reference to a person who has a disability.

(3) In relation to the protected characteristic of disability—

(a) a reference to a person who has a particular protected

characteristic is a reference to a person who has a particular disability;

(b) a reference to persons who share a protected characteristic is a reference to persons who have the same disability.

(4) This Act (except Part 12 and section 190) applies in relation to a person who has had a disability as it applies in relation to a person who has the disability; accordingly (except in that Part and that section)—

(a) a reference (however expressed) to a person who has a disability includes a reference to a person who has had the disability, and

(b) a reference (however expressed) to a person who does not have a disability includes a reference to a person who has not had the disability.

(5) A Minister of the Crown may issue guidance about matters to be taken into account in deciding any question for the purposes of subsection (1).

(6) Schedule 1 (disability: supplementary provision) has effect.

6. The case law can be summarised as follows.
7. In **J v DLA Piper UK LLP** UKEAT/0263/09, the EAT confirmed that, particularly in cases where the mental impairment is disputed, the focus of the tribunal's enquiry should now be on the effect the impairment has on an employee's day-to-day activities. The EAT drew a distinction between symptoms of low mood and anxiety caused by clinical depression and those that derived from a "medicalization of work problems" or "adverse life events". While the former was likely to be a disability, the latter was not.
8. In **Herry v Dudley Metropolitan Council** UKEAT/0100/16 and **Herry v Dudley Metropolitan Council and Governing Body of Hillcrest School** UKEAT/0101/16, the claimant was unable to establish disability because the difficulties they were encountering were due to a reaction to difficulties at work rather than a mental impairment.
9. In **Tesco Stores Ltd v Tennant** UKEAT/01617/19, the EAT confirmed that an impairment must have long-term effect at the time that the alleged acts of discrimination are committed. Therefore, if the claimant's condition has not lasted at least 12 months at the time of the alleged discriminatory act (or, if there is more than one act, at the time of each act), the claimant will not meet the definition of disability unless they can instead show that, at the time of the alleged discriminatory act (or acts), their condition was likely to last 12 months or for the rest of their life.
10. In **Seccombe v Reed in Partnership Ltd** EA-2019-000478, the EAT observed that the long-term requirement relates to the effect of the impairment rather than merely the impairment itself. It is therefore not sufficient that a person has an impairment that is long-term; the impairment must have a substantial adverse effect on day-to-day activities that is long-term.

11. Paragraph 5(1) of Schedule 1 to the EqA 2010 makes allowance for the effect of any corrective treatment in considering the question of 'substantial adverse effect'; 'an impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if measures are being taken to treat or correct it, and but for that, it would be likely to have that effect'.
12. 'Likely' in this context means 'could well happen' (rather than, on the balance of probabilities), per the EqA 2010 Guidance at paragraph C3.
13. The Tribunal must perform the artificial exercise of considering what the prognosis was likely to have been in light of the information at the time of the act of discrimination; the assessment of the likelihood of the adverse effect lasting for 12 months is to be made as at the date of the alleged discrimination and must not take into account anything only known or occurring after that time: **All Answers Ltd v W** [2021] EWCA Civ 606.
14. Paragraph 2(2) of EqA 2010 Sch 1 provides that if an impairment has had a substantial adverse effect, but that effect ceases, the substantial adverse effect is treated as continuing if it is likely that the effect will recur. However, likelihood of recurrence must be judged based on what was known at the time the discrimination took place; matters thereafter must be disregarded as irrelevant (**Richmond Adult Community College v McDougall** [2008] EWCA Civ 4, [2008] ICR 431.)

The Hearing

15. The claimant is no longer resident in the United Kingdom. He enquired about attending the hearing remotely from the Netherlands. He was told that he could not give evidence from the Netherlands.
16. On 29 June, the claimant applied to adjourn this hearing because the barrister he had used was no longer available. The adjournment was refused. The claimant did not renew the application before me.
17. The claimant indicated that he would be giving evidence from Denmark, which would have been permissible.
18. The hearing started at 10:15am because of a mix up with the codes for the CVP portal. Mr England confirmed that the respondent had no objection to the amendment to his claim that the claimant had applied for. I said I would return to this after dealing with the disability point.
19. The respondent prepared a hearing bundle of 230 pages, which included the claimant's impact statement and medical records and a witness statement.
20. In the event, the claimant attended by video from the Netherlands and accepted that he could not give evidence. I advised him that I could attach little weight to his witness statement and impact statement, but he could make oral submissions, which he did.

21. I heard from the claimant and Mr England and took a break at 11:05am to consider my decision.
22. I asked the parties to return at 2:00pm BST (3:00pm in the Netherlands) to hear my oral Judgment and Reasons.
23. I delivered my oral Judgment and Reasons at 2:00pm08pm and dismissed the claimant's claims. The claimant asked for the Reasons to be put in writing. The hearing closed at 2:35pm.

Findings

24. I could give the claimant's witness statement and impact statement [198] very little weight. He had been given clear guidance about how he could have given evidence. He failed to take the advice he was given.
25. I found the claimant's impact statement to bear very little consistency or commonality with the medical records he produced [122-197]. The impact statement looked to me like something that the claimant had cut and pasted from a website describing likely effects of anxiety attacks, depression and anxiety, rather than his personal experience.
26. I found the claimant's medical records to be a much more credible source of information about the effect of the impairments on the claimant's ability to carry out normal day to day activities than his impact and witness statements, to which I could give little weight.
27. The medical records showed multiple consultations in person and by telephone by the claimant with his GP and local hospital between 2 October 2023 and 5 January 2024
28. I find that the totality of the claimant's engagement with medical services between October 2023 and January 2024 show that he had relatively minor instances of panic attacks that were ameliorated by breathing exercises and were improving by January 2024.
29. I find that the claimant's symptoms appear to have been brought on by stressful life events, such as a job interview, visa application and the absence management procedure invoked by the respondent from early December 2023.
30. I find that the last medical appointment in the period of the claimant's claims was on 5 January 2024, when he complained of symptoms connected to the respondent giving him a letter of concern [138]. On that date, the claimant's medication was reduced.
31. The impact statement claims that the claimant lost his appetite, became unsociable, was unable to keep his house clean for three months and was unable to wash or keep himself kempt because of his disability. None of those effects are noted in the medical records and most were directly contradicted.
32. I find that the reality of the situation was that on 5 December 2024, the claimant

did not have a disability that had a substantial adverse long-term effect on his ability to carry out normal day-to-day activities. At the time of the alleged discrimination, the effect of an impairment had not lasted and was not likely to last at least 12 months. I have made that assessment by reference to the facts and circumstances existing at that date and have not had regard to events occurring subsequently.

**Approved by
Employment Judge Shore
Date: 30 June 2026**

JUDGMENT & REASONS SENT
TO THE PARTIES ON
Date:

2 July 2026

FOR THE TRIBUNAL OFFICE