



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

Mr Scott Selby

AND

Respondent

RAC Motoring Services

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD REMOTELY (By CVP)

ON

29 June 2026

EMPLOYMENT JUDGE N J Roper

Representation

For the Claimant: In person, assisted by his wife

For the Respondent: Mr J Cook of Counsel

JUDGMENT

The judgment of the tribunal is that at all times material to this case the claimant was a disabled person by reason of two impairments, namely (i) rheumatoid arthritis and (ii) Raynaud's condition. He was not a disabled person at the material times by reason of either (iii) crushed/fused vertebrae, or (iv) ADHD/Autism.

REASONS

1. This is the judgment following a preliminary hearing to determine whether the claimant was a disabled person at the material times.
2. This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was by Cloud Video Platform. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing, to which the parties consented. The documents to which I was referred are in an agreed bundle of 186 pages, together with an additional nine pages added by the claimant this morning.
3. I have heard from the claimant, who gave evidence having submitted a Disability Impact Statement. Mr Cook questioned the claimant on his evidence, and he made submissions on behalf of the respondent.

4. There was a degree of conflict on the evidence. I found the following facts proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after listening to the factual and legal submissions made by and on behalf of the respective parties.
5. The Facts:
6. The claimant Mr Scott Selby was born on 16 May 1987. He was employed by the respondent RAC Motoring Services from 26 June 2023 until 2 August 2024. Following his dismissal he has pursued claims for unfair dismissal and for disability discrimination which have been set out in detail in a case management order prepared by Employment Judge Volkmer dated 14 October 2025. The claimant asserts that he was a disabled person at the material times (that is to say for the duration of his employment) by reason of four impairments: (i) rheumatoid arthritis; (ii) Raynaud's condition; (iii) crushed/fused vertebrae; and (iv) Attention Deficit Hyperactivity Disorder (ADHD)/Autism. The respondent has disputed that the claimant was thus disabled, although it did concede this morning that the claimant is disabled by reason of the first two impairments only.
7. The claimant has prepared an Impact Statement and gave evidence in accordance with that statement. He has also adduced various medical and supporting documents, such as Occupational Health reports. The key documents are a letter from the Emergency Department of Bristol Hospitals dated 22 January 2024; a rheumatology review letter dated 23 February 2024; a summary of his NHS GP notes setting out a list of Problems (Active), and conditions under his Significant Past; a rheumatology review letter dated 3 February 2021; Occupational Health reports dated 17 July 2023 and 17 April 2024; and an Individual Needs Analysis, which is effectively a health and safety report following discussions with a senior manager Mr Moore who considered the previous medical and Occupational Health information, and who then compiled that report.
8. The position concerning rheumatoid arthritis and secondly Raynaud's condition seems to me to be very straightforward. It is clear from the claimant's impact statement, his medical history, and the Occupational Health reports that the claimant has suffered from each of these two conditions for many years. They are both an autoimmune condition, and each condition has had a substantial adverse effect over many years on the claimant's ability to carry out normal day-to-day activities. For instance, the Occupational Health report dated 11 July 2023 records that: "Scott has been diagnosed over 10 years ago for his autoimmune condition which affects his joints, mainly his elbows, wrists, knees and neck." The Occupational Health report dated 17 April 2024 confirmed that the claimant had underlying health conditions, "specifically Raynaud's and rheumatoid arthritis", which can cause daily joint pain"
9. With regard to the third disputed disability of crushed/fused vertebrae, there is some evidence in the relevant documents of a previous back injury. The rheumatology review dated 23 February 2024 merely refers to a "previous back injury" without any further explanation. The detailed rheumatology review dated 31 May 2024 again merely mentions "previous back injury" in past medical history, but without any further explanation. However, there is no record of any back injury in the summary of the GP records under either Problems (Active) or Significant Past. Similarly, the claimant has not mentioned any back injury, or crushed or fused vertebrae, in his Impact statement, nor whether he suffers any substantial adverse affect on his normal day-to-day activities as a result of any condition relating to his vertebrae. In addition, the only medical evidence relating to any spinal injury is a letter from the Emergency Department dated 22 January 2024 when the claimant reported with backache following an incident at work at which he lifted a car wheel. The claimant's back was x-rayed and the x-rays showed "no acute bony injury", which appears to be a clear contradiction of the claimant's assertion that he has crushed or fused vertebrae.
10. The position is less straightforward with regard to the final disputed disability of ADHD/Autism. None of the evidence to which I have been referred shows that there has ever been any diagnosis of any condition within the Autism spectrum. The claimant's GP notes do not refer to Autism under either of the headings Problems (Active) or Significant Past. There is no mention of Autism in any of the Occupational Health reports, or other

notes and reports of medical discussions with one limited exception. This is the health and safety workplace assessment with Mr Moore, whose notes record “Scott has stated that he has ADHD and is on the autistic spectrum, although he has not stated what his diagnosis is, there is also mention of dyslexia on his OH report, but Scott did not mention this to me. Scott did not voice concerns about adjustments for the ADHD or ASD.” Similarly, there is no cogent evidence in the claimant’s Impact Statement about any diagnosis of Autism or what impact this might have had on his normal day-to-day activities.

11. With regard to the condition of Attention Deficit Hyperactivity Disorder (ADHD), the GP notes record that this was diagnosed on 24 October 1996 (when the claimant was nine years old), and the notes record that medication was discontinued in July 2001. The claimant has adduced no evidence to suggest that he has received any treatment, or had any medical intervention, or consulted any practitioner, in connection with ADHD within the last 25 years. The claimant does mention one aspect in his impact statement, namely that when startled or provoked it can cause him to lash out and become apologetic afterwards. However, he also explains that he is able “to keep it at bay” by way of coping mechanisms, and has not provided any evidence as to any substantial adverse effect on his normal day-to-day activities.
12. Having established the above facts, I now apply the law.
13. The Law:
14. The claimant alleges discrimination because of disability under the provisions of the Equality Act 2010 (“the EqA”). The claimant complains that the respondent has contravened a provision of part 5 (work) of the EqA. The claimant alleges direct discrimination, discrimination arising from a disability, and failure by the respondent to comply with its duty to make adjustments.
15. The protected characteristic relied upon is disability, as set out in section 6 and schedule 1 of the EqA. A person P has a disability if he has a physical or mental impairment that has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities. A substantial adverse effect is one that is more than minor or trivial, and a long-term effect is one that has lasted or is likely to last for at least 12 months, or is likely to last the rest of the life of the person.
16. In addition, schedule 1(5) EqA provides that – (i) 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 – (a) measures are being taken to treat or correct it, and (b) but for that, it would be likely to have that effect. (ii) “Measures” includes, in particular, medical treatment and the use of prostheses or other aid.
17. The provisions relating to the burden of proof are to be found in section 136 of the EqA, which provides that if there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred. However this does not apply if A shows that A did not contravene the provision. A reference to the court includes a reference to an employment tribunal.
18. Under section 212(1) EqA “substantial” means more than minor or trivial.
19. The Secretary of State has published Guidance on Matters to be taken into Account in Determining Questions Relating to the Definition of Disability (2011) (“the Statutory Guidance”), which I have considered. Section B provides guidance on the meaning of “substantial adverse effect”. This repeats section 212(1) EqA and confirms that “substantial” means more than minor or trivial. In it also addresses factors such as the time taken to carry out an activity; the way in which an activity is carried out; and curative effects of an impairment. Section D provides guidance on the meaning of “normal day-to-day activities”. The EqA does not define what is to be regarded as a “normal day-to-day activity”, but in general the Statutory Guidance states that it includes things which people do on a regular or daily basis, and examples include shopping, reading and writing, having a conversation or using the telephone, and carrying out household tasks.
20. The Appendix to the Statutory Guidance provides “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”. These include:

- “difficulty operating a computer, for example, because of physical restrictions in using the keyboard, a visual impairment or a learning disability; inability to convert or give instructions orally; difficulty understanding or following simple verbal instructions; persistent and significant difficulty in reading or understanding written material where this is in the person’s native written language, for example because of a mental impairment; and persistent distractibility or difficulty concentrating.”
21. I have also had regard to the relevant provisions of Appendix 1 of the Equality and Human Rights Commission Code of Practice on Employment - the Meaning of Disability. This says that a substantial adverse effect is something which is more than minor or trivial. In determining whether something has a substantial adverse effect, account should also be taken of where a person avoids doing things which, for example, cause pain, fatigue or substantial social embarrassment; or because of the loss of energy and motivation.
 22. This Appendix to this Code also says that normal day-to-day activities are those activities which are carried out by most men or women on a fairly regular and frequent basis. Day-to-day activities include activities such as walking, driving, using public transport, cooking, eating, typing, writing, going to the toilet, talking, listening to conversations or music, reading, taking part in normal social interaction, or forming social relationships, nourishing and care for oneself. This is not an exhaustive list.
 23. This Appendix to this Code also confirms that where someone receives medical or other treatment which alleviates or removes the effects, the treatment is ignored, and the impairment is taken to have the effect it would have had without such treatment. This does not apply if substantial adverse effects are not likely to recur even if the treatment stops (that is to say the impairment has been cured).
 24. The burden of proof is on the claimant to show that, at the material times, he was disabled for the purposes of s6 EqA (see Morgan v Staffordshire University [2002] IRLR 190 EAT). This includes establishing the impairment, and the substantial adverse effect on normal day-to-day activities.
 25. Following Goodwin v Patent Office [1999] ICR 302, the tribunal should ask the following four questions: (i) Did the claimant have a physical or mental impairment? (ii) Did the impairment affect the claimant’s ability to carry out normal day-to-day activities? (iii) Was the adverse effect on normal day-to-day activities “substantial”? In accordance with section 212(2) EqA a substantial effect is one which is “more than minor or trivial”; and (iv) was the substantial adverse effect long term?
 26. As confirmed in J v DLA Piper LLP [2010] ICR 1052 EAT, the four questions should generally be posed sequentially and not together, although one should not adopt an entirely rigid and inflexible approach.
 27. Judgment:
 28. I deal first with the first two disabilities of rheumatoid arthritis and Raynaud’s condition which are both autoimmune conditions and which are partly linked. It is clear from the evidence that the claimant has suffered for each impairment from a number of years. It is also clear that these conditions have had and continue to have an adverse effect on the claimant’s normal day-to-day activities, which involves feeling pain, loss of circulation, and inability to function properly. These adverse effects are substantial because they are more than minor or trivial. I have no hesitation in determining that the claimant was a disabled person at all material times by reason of both rheumatoid arthritis and Raynaud’s condition. The respondent conceded as much during the course of this hearing.
 29. With regard to the third disputed disability of crushed/fused vertebrae, for the reasons set out in paragraph 9 above I find that the claimant has failed to discharge the burden of proof upon him to establish that he has the impairment of crushed/fused vertebrae in the first place, and in addition he has failed to discharge the burden of proof to establish that crushed and/or fused vertebrae have caused him any substantial adverse effect on his normal day-to-day activities. For these reasons I cannot conclude that the claimant was a disabled person by reason of this impairment, and this claim is rejected.
 30. Similarly, with regard to the final disputed disability of ADHD/Autism, for the reasons set out in paragraphs 10 and 11 above I find that the claimant has failed to discharge the burden of proof upon him to establish that he suffered from any such impairment at the

material times. In addition, he has failed to establish that this condition has caused any substantial adverse effect on his ability to carry out normal day-to-day activities. For these reasons I cannot conclude that the claimant was a disabled person by reason of ADHD autism, and this claim is also rejected.

31. These reasons are given pursuant to Rule 60(3) of the Employment Tribunal's Rules of Procedure 2024. For the purposes of Rule 60(7), (a) the issues which the tribunal determined are at paragraph 1; (b) the findings of fact made in relation to those issues are at paragraphs 6 to 11; (c) a concise identification of the relevant law is at paragraphs 14 to 26; and how that law has been applied to those findings in order to decide the issues is at paragraphs 27 to 30 .

Employment Judge N J Roper
Dated 29 June 2026

Judgment sent to Parties on

15 July 2026

For the Tribunal Office