EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8002525/2025

Held in Edinburgh on 6-9 July 2026

Employment Judge Sangster
Tribunal Member McDougall
Tribunal Member McFarlane

Mr W Lamont	**Claimant** **In Person**
Scotia Double Glazing Limited	**Respondent** **Represented by:** **Mr R Mackenzie - Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The unanimous judgment of the Tribunal is that the claimant's complaints of discrimination arising from disability and unauthorised deductions from wages succeed, to the extent set out in the judgment. The respondent is ordered to pay the claimant:

1. The sum of **£6,348.25**, including interest, for financial loss; and

2. The sum of **£6,595.73**, including interest, by way of compensation for injury to feelings.

The claimant's complaint of failure to make reasonable adjustments does not succeed and is dismissed.

REASONS

Introduction

1. The claimant presented complaints of discrimination arising from disability, failure to make reasonable adjustments and unauthorised deductions from wages.

2. At a case management preliminary hearing held 8 May 2025, a document, submitted by the claimant on 19 February 2026, was accepted as an amendment to his claim, introducing complaints of failure to make reasonable

adjustments and discrimination arising from disability in relation to a decision taken in/after November 2025, that he was unfit to work as a result of seizures.

3. Parties lodged a joint set of productions, extending to 573 pages.

4. The claimant gave evidence on his own behalf and called his mother, Isabell Brown, to give evidence also.

5. The respondent led evidence from the following individuals:

   5.1. Danielle Kyle (**DK**), HR Manager; and

   5.2. Alastair Bone (**AB**), Finance Director.

6. Other individuals referenced in this judgment are:

   6.1. Carol Boag (**CB**), Employment Advisor, engaged by Equal Supported Employment.

   6.2. Roseanne Savage (**RS**), a Registered General Nurse engaged by Ayrshire Medical Services.

Issues to be determined

7. The respondent conceded that the claimant was a disabled person at the relevant times as a result of autism spectrum disorder (ASD) and that they had knowledge of this. Disability status in relation to the remaining conditions relied on, namely trauma induced anxiety and functional neurological disorder (FND) resulting in seizures, was not conceded. At the start of the second day of the hearing, the respondent conceded that the complaints were timeously lodged and that the issue of timebar could be removed from the list of issues.

8. The issues to be determined were discussed at the start of the hearing. It was agreed (subject to the issue of time which removed the following day, as set out above), that the issues to be determined were as set out in the list of issues contained in the schedule to this judgment.

Findings in Fact

9. This judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues which the Tribunal must consider to decide if the complaints made succeed or fail. If a particular point is not mentioned, it does not mean that it has been overlooked, it simply means that it is not relevant to the issues. The relevant facts, which the Tribunal found to be admitted or proven, are set out below.

10. The respondent is a manufacturer and supplier of windows and doors, operating across Scotland. They also undertake installation on new build

houses. They have one site, in Kilmarnock, where there is a production line, yard and office buildings. They have around 250 employees.

11. The claimant started working with the respondent on 1 May 2022. His role involved data inputting and processing. He was very competent in his role, noted to work quickly and with accuracy.

12. In November 2022, DK held a support meeting with the claimant. It was discussed that he has ASD, poor mental health and required time off to attend CBT therapy, which he was attending weekly for 8 weeks. It was noted, at that time, that focusing on work enabled the claimant to stay mentally and physically healthy at work, and warning signs that he was experiencing poor mental or physical health were talking slower, stutter, motor tics and carrying out work at a slower pace. A further meeting took place in November 2023. Following that meeting, DK produced a note which included the following *'William struggles with noises both frequent and sudden, for example he can't have the air conditioning on in the office as he finds the noise distracting. We do a fire alarm test once per week, this can make William feel uneasy even though prior warning is given. To combat these issues as best as possible we have provided William with an office which he resides in alone, as he feels like he can concentrate better with less distractions…William likes to work to a strict and structured routine regarding his workload, deviation from this can cause William some stress and anxiety. Over the last 12 months William has struggled massively with his mental wellbeing which can on occasion have an impact on work. He has accessed our Employee Assistance Program seeking regular face to face meetings with our Occupational Health Practitioner.'* DK held weekly 121 meetings with the claimant to discuss his wellness plan. This included discussion of the support required related to ASD and how he was coping with his mental health.

13. On 30 September 2024, the claimant's line manager noticed him in his office rocking back and forth and ringing his hands. She asked if there was anything she could do, and he said he didn't want to be here anymore. She asked what he meant by this and he said he didn't want to be alive anymore and that he was worried he would harm himself or one of his colleagues, as it had happened before. He left the workplace and went to A&E. This mental health crisis was caused by trauma related/induced anxiety, which was formally diagnosed immediately following this. He was subsequently certified as unfit to work by his GP, until 29 April 2025.

14. On 3 February 2025, during the period he was certified by his GP as unfit to work, the claimant had a telephone discussion with a Mental Health and Wellbeing Advisor from the respondent's occupational health provider, Ayrshire Medical Services (**AMS**), who subsequently provided a report to the respondent. That report noted the following under the heading 'Background':

'William has been seen in the past for support for his mental health issues. He has autism and has a history of anxiety, panic attacks, visual hallucinations and possible PTSD (Post Traumatic Stress Disorder). In October 2024 William's symptoms became worse and he had repeated panic attacks at work. William had been unable to sleep for months prior to these attacks. He attended A/E at that time and has been off sick since.' The medication he had been prescribed was detailed, and the report indicated that the claimant felt this was helping. The report stated 'He has also been working on himself to help his symptoms and describes in detail how he has been pushing himself to interact with others by walking in the mall, talking to people, going into cafes, going to a gym and helping out at church. William described intense emotions he experienced in October when he felt he was capable of hurting others. These intense emotions brought up memories for William but he is confused as to whether these feelings were based on real events or on hallucinations.' Under 'Summary and Recommendations' the report noted *'William feels much better than he did previously. He described feeling happy, excited and more social lately. He is keen to return to work.'* The recommendation was that he was not fit to return to work yet – whether he was fit to do so should be assessed after his psychiatrist appointment at the end of that month.

15. The claimant saw his Consultant Psychiatrist on 26 February 2025. On 9 March 2025, she sent a report to the claimant's GP following the consultation which noted, in the diagnosis section *'Trauma related symptoms'* as well as ASD. The background to the trauma, which occurred in childhood, was detailed, as were some triggers. Anxiety was the principal trauma related symptom discussed in the report. It noted that the claimant was no longer taking any medication, but was undertaking anxiety management work with a CPN (which the claimant had started in November 2024). It was highlighted in the report that the claimant would like to get back to work in order to be in company more regularly. She noted that he had isolated himself, as he actively avoids being around people, and this has led to him feeling lonely. She concluded with the following *'There may be a role for trauma work in the future, but I think that William's main concern now is to improve his functioning and get back to work, which I would support. There was no suggestion of a risk of harm to himself or others. I will see him again in 6 months' time.'*

16. On 11 March 2025, DK emailed AMS and requested that they chase for an update from the psychiatrist, following the consultation the claimant had with them in February. They did so, and on 9 April 2025, the claimant's GP wrote to AMS, stating *'William was diagnosed with autistic spectrum disorder in December 2021 but has a lifelong history of typical features of this condition. He finds communication difficult especially with strangers. He has daily routines that he needs to stick to and becomes very distressed if these are*

not followed. He struggles with anxiety and finds new social situations very challenging. He finds bright lights and loud noises upsetting, is overwhelmed by certain food textures and has sensory skin issues. He can become easily frustrated and agitated. William also has a history of visual and auditory hallucinations. These episodes are associated with increased anxiety and worry'. Towards the end of the letter the GP stated *'William's autistic spectrum symptoms and characteristics are likely to be lifelong but he has been undertaking anxiety management work with his CPN, and this may have a beneficial effect on his ability and confidence to engage with others. The degree to which this benefits William will likely determine when and if William will be able to return to his current employment.'* The GP enclosed the letter from the claimant's Consultant Psychiatrist, sent on 9 March 2025 (paragraph 15 above).

17. On 24 April 2025, AMS wrote to the respondent stating that, from their review of the report from the claimant's GP and Consultant Psychiatrist, as anxiety management was at an early stage, it was too early to say if the claimant had responded well enough to return. They stated that the claimant was unfit to work at that time and should be reviewed again in 4 weeks' time, following anxiety engagement.

18. The claimant was paid weekly. His entitlement to SSP expired on 24 April 2025. He received his last payment of SSP on that date. He was informed by DK, on 1 May 2025, that his SSP entitlement had been exhausted. A payslip was generated showing that no payment was made on that date.

19. The claimant's most recent fit note, which had certified him as unfit to work, expired on 29 April 2025. A further 'unfit to work' fit note was not issued on 30 April 2025.

20. On 8 May 2025, the claimant sent an email to DK stating *'my GP has verbally informed me that they consider me fit for work and, as a result, they are no longer issuing any further fit notes. They have also advised that the lack of an ongoing fit note should be taken as an indication of fitness to work.'*

21. On 13 May 2025, the claimant's Consultant Psychiatrist wrote a 'To Whom it may Concern' letter in respect of the claimant, at his request, as he understood that the respondent required confirmation that he was fit to return, before he would be permitted to do so. The letter *stated 'I am writing in my capacity as Consultant Psychiatrist responsible for the care of Mr William Lamont. I can confirm that Mr Lamont has a diagnosis of Autism Spectrum Disorder. He attends the Community Mental Health Team. He is not on any medication but is seeing a Community Psychiatric Nurse and undertaking some anxiety work. Mr Lamont is keen to return to work and I would have no*

objection and would hope this will be beneficial to his mental health overall. If further information is required please do not hesitate to contact me.'

22. The claimant also spoke to his GP again, to try to get evidence from them that he could return to work. They issued a fit note, dated 15 May 2025, stating that he may be fit to return, if a phased return to work, over the period from 30 April to 12 June 2025, could be offered. The fit note stated *'mental health difficulties have improved and functioning well'.*

23. The claimant provided the fit note and the letter from his Consultant Psychiatrist to DK on/around 15 May 2025, stressing again that he felt that he was now in a position to return. He was ready, willing and able to return to work from that point. DK indicated that she would require to take advice on the matter from AMS. She felt it was particularly important to do so, given the circumstances in which the claimant's absence had started.

24. On 21 May 2025, AMS issued a report, prepared by RS (the **AMS Report**). She did not meet with the claimant, or have any discussion with him, prior to doing so. She stated that she had reviewed the reports provided to AMS. She stated that there had been *'no real change to his mental health'.* She stated that he had recently disclosed that he experienced severe trauma in childhood and *'this seems to be one of the main causes of his anxiety',* she noted that he may be a candidate for trauma counselling in the future. She stated that *'He is not taking any medication to support his mental health and given this and the early stages of his one to one mental health services, it is our opinion that he is not fit to return to work at this time. I would recommend a review in three months' time where we can see if he has engaged with the relevant mental health services and there has been an improvement in his mental health.'* The claimant was not, in fact, at the *'early stages of his one to one mental health services'*: These had started in November 2024, and were coming to an end. The claimant would have informed RS of that, had she contacted him to discuss matters or meet with her, prior to preparing her report.

25. DK reviewed the report. She concluded that, given the circumstances which lead up to the claimant's absence, that the respondent could not now allow the claimant to return to work. She felt that she could not accept the claimant, his GP and his Consultant Psychiatrist's view that he was fit to return, over the view expressed in the AMS Report, and she was not able to even seek clarification on AMS's view that the claimant was not fit to return to work, given the circumstances leading up to the claimant's absence, and the safeguarding issues which may arise, if she did so. On 22 May 2025, DK sent an email to the claimant to inform him that he would not be permitted to return to work. She stated that *'after a thorough assessment'* occupational health had *'advised that they do not agree with the recommendation from your GP and*

mental health team at this stage and do not believe you are currently fit to work.' She stated that the matter would be reviewed again in three months, and provided a copy of AMS's report to the claimant. She stated *'Please understand that this decision has been made with your health and long-term wellbeing in mind, as well as the responsibilities we hold as a business to ensure a safe and supportive environment for all employees.'*

26. On 13 June 2025, the claimant raised two grievances. In the first grievance he asserted direct disability discrimination. He stated, in the opening paragraph, that he had *'experienced numerous delays and blocks in my efforts to return to work, despite being fit and willing. The reports from my GP and psychiatrist support this, yet decisions have been made against these professionals' opinions by Occupational Health staff who have not directly assessed me.'* He went on to state '*The lack of communication, the misinformation about my use of the EAP, and the continued reliance on outdated assessments, without any further contact or reassessment involving me directly have all contributed to this discrimination. These actions have resulted in significant detriment to my mental health, increased stress, and triggered trauma related to my condition…I have attempted to address this by challenging Occupational Health's decision which led to a meeting with yourself and HR. However, the outcome did not result in any meaningful reassessment or resolution of the issues raised. I therefore submit this formal grievance in the hope of having the issue investigated and resolved promptly.'*

27. The second grievance asserted failure to make reasonable adjustments. He stated in the opening paragraph of that *'Since late 2024, I have repeatedly expressed my desire and readiness to return to work and have submitted medical documentation from both my GP and psychiatrist supporting this. Despite this, I have been prevented from returning due to decisions made by Occupational Health (OH) without any direct assessments or engagement with me since February 2025. The most recent OH report was produced by someone I have never met without any personal knowledge in relation to my condition, and it contradicted existing medical opinions from qualified professionals who have assessed me.' He stated that 'misinformation, and the lack of reassessment, has delayed my return to work and negatively impacted both my mental health and financial stability. Under the Equality Act 2010, employers have a legal duty to make reasonable adjustments where a provision, criterion or practice puts a disabled person at a substantial disadvantage. These adjustments include, but are not limited to, modifying processes and ensuring medical decisions are based on up-to-date and accurate assessments. My employer has failed to ensure this, which has caused further distress and triggered trauma related to my condition.'*

28. A grievance meeting took place on 24 June 2025. It was conducted by the respondent's Director of Operations, and an external HR consultant was present. The claimant confirmed his position, as set out in his grievances. He stated he was not at the early stages of treatment, as had been suggested by AMS.

29. On 25 June 2025, the claimant sent an email summarising what had been discussed at the grievance meeting. He then stated 'From the discussion it appeared that the company had not directly followed up with Occupational Health to address inconsistencies in the reports or to request a reassessment, despite conflicting medical evidence being provided.'

30. On 26 June 2025 the claimant was sent a letter confirming that neither grievance had been upheld. In relation to both grievances, the conclusion was based on the fact that occupational health had stated that the claimant was unfit to return to work. The claimant was informed of his right to appeal, and that, whilst AMS had indicated that they would review him again in 3 months (i.e. at the end of August 2025), the respondent had asked for the review date to be brought forward.

31. The claimant appealed against the grievance outcomes on 30 June 2025, reiterating that his GP and Consultant Psychiatrist both supported a return to work, but his return was blocked by OH who had not had any direct contact with him, or reassessed him, since February 2025. He stated that the respondent was unclear why AMS reached the conclusion they did, but no attempts were made to seek clarification from AMS. He stated that *'This process has had a detrimental effect on my wellbeing, increasing my stress levels, triggering trauma symptoms, and reinforcing a perception of not being heard or treated fairly due to my disability.'* He set out what he was seeking, which included a plan to support his return to work, consideration of the emotional and psychological harm caused during the process and a review of lost earnings resulting from the delays.

32. The claimant attended an appeal meeting on 8 July 2025. This was conducted by AB. The claimant reiterated his position, as set out in his grievances and grievance appeal. When asked if he felt that the respondent should ignore occupational health advice, the claimant indicated that he felt it should be challenged. AB stated that the company were *'not in a position to question Occupational Health recommendation. To do so would be seen to influence which in turn would call into question the independence and objectivity of external opinion.'* He reiterated throughout the meeting that the company *'cannot challenge'* occupational health.

33. On 5 August 2025, AB wrote to the claimant confirming that his appeal was not upheld. He stated that decisions were based on the occupational health

advice received, and that advice indicated that the claimant was unfit to work. He felt that particular clarity and certainty in relation to the medical advice was required in the claimant's case, given the circumstances in which he went off. Unless that was present (with all medical professionals agreeing), the claimant could not return to work. At the end of his letter he stated *'I went on to raise a concern that you stated, on record, that this process had triggered trauma symptoms and questioned whether this in itself was evidence of an unfit to work situation given similar symptoms were experienced resulting in your initial absence.'* That statement reflected what had been stated by AB at the grievance appeal meeting.

34. RS from AMS met with the claimant on 25 July 2025, at the respondent's request. No additional information was provided to her in advance of her meeting with claimant, as no further information had been received from the claimant's GP or Consultant Psychologist. She was informed by the claimant that his anxiety management work with a CPN, which had been about to end at the time of her previous report, had now concluded. Following the meeting, RS issued a report indicating *'He is keen to return to work on a four-day basis, but initially on a phased return of two days and given the frank and honest discussions today, I see no reason why he cannot return to work on this basis. He should be reviewed again in 2 weeks following his return to work.'*

35. A meeting took place on 13 August 2025, between the claimant and DK, to discuss arrangements for the claimant's return to work. It was agreed he would return on a phased basis, working 2 days per week initially. It was noted that the claimant had been referred to Equal, an employment support group. DK indicated that she would like to meet with them, and have a further occupational health referral, before the claimant returned to work, to see what support could be offered. She wrote to the claimant on 15 August 2025, summarising the points discussed at the meeting and the next steps. She stated *'To ensure a smooth transition back to work we need to allow time to work through these actions, with this in mind we have taken the decision to implement a phased return with effect from 8 September 2025.'*

36. From week commencing 18 August 2025, the claimant was paid for 2 days per week (8 hours per day, at £12.60 per hour). He received his first payment on Thursday 28 August 2025. This continued until his employment terminated.

37. The claimant did not return to work on 8 September 2025. Instead, DK arranged another meeting to discuss the arrangements for the claimant's return, to take place on 16 September 2025. CB attended that meeting. DK had met with CB on 4 September 2025, to discuss what adjustments could be put in place for the claimant. At that meeting CB recommended: coloured glasses; earbuds; and an introduction to the new office space/tour prior to return.

38. At the return to work meeting on 16 September 2025, the claimant was informed that the office layout had changed in his absence, and the room he previously worked in (alone) was now occupied by 4 other people. He would accordingly work from the main Customer Care Office, on his return. That decision was supported by occupational health and CB, both of whom stated that being situated in an office on his own, when he returned to work, would be detrimental to the claimant. The claimant was shown the office. He expressed some reservations, but agreed to trial the work location. The claimant raised at this meeting that that he was uncertain about what his colleagues may think if he is experiencing things like stuttering or tics. He was assured that no one would be making judgement. He indicated that he would prefer that the immediate team be briefed on this, prior to his return.

39. Following the meeting, DK prepared a Return-to-Work Plan document. This indicated a return to work date of 14 October 2025. It set out the phased return plan (2 days in weeks 1 & 2, 3 days in weeks 3 & 4, 4 days from week 5 onwards), and that ear defenders and blue light reflecting glasses would be provided. It confirmed review dates, and set out a summary what was discussed at the meeting on 16 September 2025. DK sent this to CB, and then the claimant, on 26 September 2025.

40. At the start of October 2025, the claimant and DK discussed his concerns (previously raised on 16 September 2025) about how his tics and stuttering may be perceived by others in the shared office he was to work in on his return. He asked again that they be informed of this, in advance of his start date. DK agreed to do so. She confirmed to the claimant, in an email dated 8 October 2025, that they had discussed this, what he had requested (that the immediate team be informed of his tics and stuttering to ensure better understanding and support), and that she had agreed to discuss matters with his immediate team sensitively. DK then prepared some notes for herself, in preparation for a meeting with the team. These stated as follows*: 'I want to let you know that William will be returning to work with us after being away for a period of time. We are very pleased to welcome him back and we want to ensure that his return is as smooth and supportive as possible. William has asked that I share a little context with you, so that everyone understands and feels comfortable. He is autistic and experiences some sensory sensitivities. At times, he may also have a stutter or tics. These are simply part of who he is, and nothing to be concerned about. It's important that we all show patience and understanding. If you notice a stutter or a tic, the best thing you can do is allow him the time and space he needs, without drawing attention to it. Respect and support are key. We want to make sure that William feels welcome and included, and that the team environment continues to be positive and respectful. If at any point you're unsure of the best way to support him, or you have questions, please feel free to come and speak to me or Liz*

directly in confidence. Thank you all for helping to create an inclusive and supportive workplace for every member of the team'. DK met with the team on/around 10 October 2025. Whilst she did not read the statement verbatim, she conveyed that general message to them.

41. The claimant returned to work on 14 October 2025. He worked 2 days that week and the next week. The work he undertook in that period was of good quality and very accurate. His work rate was good, and the team were grateful to have him back.

42. On 20 October 2025, the claimant presented his claim to the Employment Tribunal (having engaged in early conciliation from 9 July to 20 August 2025).

43. A review meeting took place, as planned, towards the end of his working day on 22 October 2025 (his second day of work, in week 2 of his phased return). He was positive and stated that his return to work had been better than expected. He stated that no stressors or challenges had been encountered. He raised no particular concerns about his working location. He stated that he had used the glasses a couple of times, but the office had adequate natural lighting, so he had not required to use them consistently. He stated that he had not yet used the earbuds, as noises could become heightened when he felt overwhelmed, but that had not occurred. He was informed that the company had changed their occupational health provider. When asked, towards the end of the meeting, if there was anything else the claimant wanted to discuss, he disclosed that he had been experiencing seizures. He stated that the first seizure had occurred on 6 October 2025, and that he had had 6 episodes to date. He stated that the seizures involved temporary body paralysis, while remaining fully conscious, with symptoms lasting for up to six hours afterwards. He stated that he had consulted his GP and had a CT scan and blood tests, which were normal. He stated he had been referred to neurology, but there was a 20 week waiting period. He stated that he felt that the seizures were brought on by stress or heightened emotions. He stated that he felt fit to continue working. CB expressed concern as to whether he could do so, and indicated that she would contact the claimant's psychiatrist to discuss the situation further. She indicated that, had she been made aware of this, she would not have continued to recommend that he return to work. The claimant indicated that he had been keeping a record of his seizures. DK asked if he could send that on to her. The claimant agreed to do so.

44. On 23 October 2025, the claimant sent DK a 2.5 page document summarising his symptoms during and after a seizure, possible triggers and a timeline of when they had occurred. The summary indicated that, while the seizure itself lasted around 5-10 minutes, the aftereffects included *'paralysis from neck down lasting 1-6 hours.'* He highlighted that there had been no seizure-like episodes at work, and that he believed they were unlikely due to their pattern

so far, but stated *'I understand that their unpredictability requires proactive planning for safety.'*

45. The claimant had a consultation with his Consultant Psychiatrist on 28 October 2025. She produced a detailed report following that consultation. She noted that the respondent had raised concern regarding the claimant reporting 'seizure like activity' which she asked him about. She set out in detail the symptoms her reported to her, then stated *'There was no description of any seizure like activity and no loss of conscious…I did not think his description of these events would be in keeping with seizure like activity, but I emailed Dr Miller to get his opinion'.* She suggested that he restart anxiety management with the CPN at the consultation. The claimant's GP record of a consultation he had with them on 3 November 2025 also detailed what the claimant had stated to his GP he was experiencing, then stated: *'Lengthy chat. Advised that I do not think these are true seizures.'*

46. The claimant attended work on 28 October 2025, but was unable to attend on 29 or 30 October 2025, as a result of seizures. He returned to work on 4 November 2025. DK conducted a return to work meeting that day. He worked that day and the next. He was unable to work on 6 November 2025, due to a seizure. On that occasion, he indicated he had been unable to move from 7am to around 12.30pm, as a result of a seizure, so was not able to contact the respondent to report his absence. When he returned to work the following week (11 November 2025), a further return to work meeting was held. At that time, he estimated that the total number of seizures he had had was around 20. He stated they were becoming more frequent. He stated that he felt anxious about travelling to work (which he did by bus), in case he experienced a seizure on the bus. It was agreed that the claimant would be referred to the respondent's new occupational health providers. They met with the claimant the following day and provided a report to the respondent on that day also. In the report, after summarising claimant's medical conditions and the background, they moved on to respond to 2 particular questions asked by the respondent. In response to the question *'Is the employee fit for work?'* they stated no, as the phased return to work had not been completed successfully. They stated that his conditions meant that attendance in the workplace would be sporadic, which could lead to operational difficulties. In response to the question *'What adjustments may be required?',* they stated that the phased return to work over three days per week had not been achieved. They noted a discussion had taken place about reducing to 2 days per week, until January 2026, *'however the seizure revelation is of great concern and there comes a stage when the question of a viable employment option has to be asked.'* Under *'Summary and Opinion'* they stated *'Until a full investigation takes place, it has to be assumed that these seizures/convulsions may be triggered*

by stress and anxiety. By default a return to work may be a cause in these events for him. A full review by neurology appears some months away.'

47. On 14 November 2025, the claimant sent an email to DK, setting out a number of concerns he had about the terms of the occupational health report. DK raised these issues with the occupational health advisor and responded to the claimant, on 18 November 2025. In her email she quoted the response she had received from occupational health, namely *'The issue is that he cannot make work with any degree of confidence, and is having multiple convulsions, without being on any medication nor immediate strategy of investigation. The report notes that any referrals to neurology may be some months away. So in short he cannot be fit to work in an operational environment, in any capacity whilst his convulsions remain undiagnosed. This is my opinion. The company is at liberty to lay him off until full investigations are fulfilled and all involved have an idea of what can be done to assist Mr Lamont in any return.'* DK then informed the claimant that, as occupational health had stated that the claimant was unfit to work, and given their duty of care to him and his colleagues, he must not attend work, other than for scheduled meetings. The respondent was concerned that the claimant may have a seizure in the workplace and, without knowing why these occurred, there was no way to plan and risk assess for these happening, or train the first aiders how to respond. They were concerned, given hazards on site, that he may have a seizure and be harmed on site. They were aware that calling 111 does not provide an immediate response (the claimant had done so, and could attest to this). They did not know what they would or could do if he experienced a seizure on site and could not move for 6-7 hours, particularly if this occurred at the end of the day.

48. A meeting was held on 20 November 2025. The claimant, DK, AB and CB attended. The claimant raised at the meeting that he felt the seizures may be caused by Functional Neurological Disorder (**FND**), but confirmed that he had not received any diagnosis stating that.

49. From 15 December 2025 to 12 January 2026, the claimant was certified as unfit to work by his GP. An updated fit note, dated 12 January 2026, indicated that he may be fit for work if reduced hours could be offered. The fit notes noted the claimant's condition to be *'functional neurological disorder',* or *'suspected functional neurological disorder'.* The respondent asked the claimant to attend occupational health again, following receipt of the fit note dated 12 January 2026 (which was provided to them on 19 January 2026). Following some discussion, the claimant gave his consent, on 5 February 2026, to that referral.

50. The claimant attended for a further occupational health assessment on 18 February 2026. They prepared a report following that consultation, dated 19 February 2026. The report indicated that their view was that the claimant

remained unfit to work, until a proper diagnosis process had been completed by neurology, and medication or some other process implemented to alter/control the randomness of the claimant's seizures. They noted that there was some doubt as to whether the claimant had been formally diagnosed with FND, and they had written to the claimant's GP requesting clarification of that. The claimant subsequently confirmed that he did not have a confirmed diagnosis, it was suspected only, and he was awaiting a neurological assessment. That remained the case, as at the date of the final hearing.

51. The claimant's employment terminated on 15 May 2026.

Submissions

52. Parties each lodged written submissions. The respondent's submission, which was read to the Tribunal and later lodged, extended to 27 pages. The claimant's submission, which was lodged and read by the Tribunal, extended to 5 pages.

53. As the parties' submissions are set out in writing, they are not summarised or reproduced in this Judgment. They have however been carefully considered.

Relevant law

Disability status

54. Section 6(1) of the Equality Act 2010 (EqA) provides:

'A person (P) has a disability if —

P has a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.'

55. Schedule 1 EqA contains supplementary provisions in relation to the determination of disability. Paragraph 2 states:

'(1) The effect of an impairment is long-term if -

(a) it has lasted for at least 12 months,

(b) it is likely to last for at least 12 months, or

(c) it is likely to last for the rest of the life of the person affected.

(2) If an 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 that effect is likely to recur.'

56. 'Likely' in this context means that 'it could well happen' (***Boyle v SCA Packaging Ltd*** 2009 ICR 1056, HL).

57. Paragraph 5 states:

> *'(1) 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…'*

58. ***The Equality and Human Rights Commission: Code of Practice on Employment (2011),*** at Appendix 1, sets out guidance on the meaning of disability. It states at paragraph 7 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.'*

59. At paragraph 16 it states *'Someone with impairment may be receiving medical or other treatment which alleviates or removes the effects (although not the impairment). In such cases, 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 the substantial adverse effects are not likely to occur even if the treatment stops (that is, the impairment has been cured).'*

60. The 'Guidance on matters to be taken into account in determining questions relating to the definition of disability' (the **Guidance**) does not itself impose legal obligations, but the Tribunal must take it into account where relevant (Schedule one, Part two, paragraph 12 EqA).

61. 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.'*

62. Paragraph B1 should be read in conjunction with Section D of the Guidance, which considers what is meant by *'normal day-to-day activities'.*

63. Paragraph D2 states that it is not possible to provide an exhaustive list of day-to-day activities.

64. Paragraph D3 Provides that:

> *'In general, day-to-day activities are things that people do on a regular or daily basis, and examples include shopping, reading and writing, having a*

conversation or using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport, and taking part in social activities.'

65. 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:

    65.1. Does the person have a physical or mental impairment?

    65.2. Does that impairment have an adverse effect on their ability to carry out normal day-to-day activities?

    65.3. Is that effect substantial?

    65.4. Is that effect long-term?

66. The burden of proof is on a claimant to show that he or she satisfies the statutory definition of disability.

Discrimination arising from disability

67. Section 15 EqA states:

    "(1) A person (A) discriminates against a disabled person (B) if – (a) A treats B unfavourably because of something arising in consequence of B's disability, and (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

    (2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability."

68. Guidance on how this section should be applied was given by the EAT in ***Pnaiser v NHS England*** [2016] IRLR 170, EAT, paragraph 31. In that case it is pointed out that 'arising in consequence of' could describe a range of causal links and there may be more than one link. It is a question of fact whether something can properly be said to arise in consequence of disability. The 'something' that causes the unfavourable treatment need not be the main or sole reason, but must have at least a significant (or more than trivial) influence on the unfavourable treatment, and so amount to an effective reason for or cause of it.

69. There is no need for the alleged discriminator to know that the 'something' that causes the treatment arises in consequence of disability. The requirement for knowledge is of the disability only (***City of York Council v Grosset*** [2018] ICR 1492, CA).

70. The burden is on the respondent to prove objective justification. To be proportionate, a measure has to be both an appropriate means of achieving the legitimate aim and reasonably necessary in order to do so (***Homer v Chief Constable of West Yorkshire Police*** [2012] IRLR 601). The Tribunal requires to balance the reasonable needs of the respondent against the discriminatory effect on the claimant (***Land Registry v Houghton and others*** UKEAT/0149/14). There is, in this context, no 'margin of discretion' or 'band of reasonable responses' afforded to respondents (***Hardys & Hansons v Lax*** [2005] IRLR 726, CA).

Failure to make reasonable adjustments

71. Section 20 EqA states:

> *'Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.'*

72. The duty comprises three requirements. The first requirement is a *'requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.'* The third requirement is a *'requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid'.*

73. Section 21 EqA provides that a failure to comply with the first or third requirement is a failure to comply with a duty to make reasonable adjustments and that A discriminates against a disabled person if A fails to comply with that duty in relation to that person.

74. Further provisions in Schedule 8, Part 3 EqA provide that the duty is not triggered if the employer did not know, or could not reasonably be expected to know that the claimant had a disability and that the provision, criteria or practice is likely to place the claimant at the identified substantial disadvantage.

Burden of proof

75. Section 136 EqA provides:

> *'If there are facts from which the tribunal could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned the tribunal must hold that the contravention occurred. But this provision does not apply if A shows that A did not contravene the provision.'*

76. There is accordingly a two-stage process in applying the burden of proof provisions in discrimination cases, explained in the authorities of ***Igen v Wong*** [2005] IRLR 258, and ***Madarassy v Nomura International Plc*** [2007] IRLR 246, both from the Court of Appeal. The claimant must first establish a first base or *prima facie* case of direct discrimination or harassment by reference to the facts made out. If the claimant does so, the burden of proof shifts to the respondent at the second stage to prove that they did not commit those unlawful acts. If the second stage is reached and the respondent's explanation is inadequate, it is necessary for the Tribunal to conclude that the complaint should be upheld. If the explanation is adequate, that conclusion is not reached.

77. In ***Madarassy,*** it was held that the burden of proof does not shift to the employer simply by a claimant establishing that they have a protected characteristic and that there was a difference in treatment. Those facts only indicate the possibility of discrimination. They are not, of themselves, sufficient material on which the tribunal 'could conclude' that, on a balance of probabilities, the respondent had committed an unlawful act of discrimination. The Tribunal has, at the first stage, no regard to evidence as to the respondent's explanation for its conduct, but the Tribunal must have regard to all other evidence relevant to the question of whether the alleged unlawful act occurred, it being immaterial whether the evidence is adduced by the claimant or the respondent, or whether it supports or contradicts the claimant's case, as explained in ***Laing v Manchester City Council*** [2006] IRLR 748, an EAT authority approved by the Court of Appeal in ***Madarassy.***

Unauthorised deductions from wages

78. Section 13 of the Employment Rights Act 1996 (ERA), states that an employer shall not make a deduction from a worker's wages unless:

    78.1. The deduction is required or authorised by statute or a provision in the worker's contract; or

    78.2. The worker has given their prior written consent to the deduction.

79. In the case of ***New Century Cleaning Co Limited v Church*** [2000] IRLR 27 the Court of Appeal confirmed that a deduction occurs where the total wages paid on any occasion, by an employer to a worker, is less than the amount of the wages properly payable on that occasion. They stated that wages are properly payable where a worker has a contractual or legal entitlement to them.

Discussion & decision

Observations on evidence

80. While, in his claim, the claimant suggested that there had been failings on the part of the respondent prior to May 2025, in evidence he stated that:

    80.1. He agreed with all of the medical reports produced up to that the end of April 2025;

    80.2. He was not in a position to return to work until May 2025; and

    80.3. There were no reasonable adjustments which would have enabled him to do so prior to May 2025.

81. He stated that his concerns were in respect of the respondent's actions from May 2025 onwards. The Tribunal have accordingly addressed that period in this Judgment.

82. Further, whilst evidence was given in relation to the period after the claimant amended his claim (by submission of his application to do so on 19 February 2026), given that his claim can only relate to points up to that date, the Tribunal made findings in fact up to that point only, and confined their deliberations to reflect that.

Disability status

83. The Tribunal's conclusions, in relation to questions posed in ***Goodwin v Patent Office***, regarding each impairment relied upon, are set out below.

Trauma induced/related anxiety

84. The respondent accepted that the claimant had this impairment and that the second and third stages of the Goodwin tests were met. They accordingly accepted there were substantial adverse effects on the claimant's ability to undertake day to day activities, as a result of the impairment. They stated however that there was no evidence that those adverse effects were long term. They relied on the lack of diagnosis, prior to October 2024. They submitted that the fact that the claimant had demonstrated an improvement by July 2025, and returned to work in October 2025, demonstrated that the effects were not long term. The Tribunal did not accept that was the case and instead concluded that, as at February 2025, the substantial adverse effects were long term. In reaching that conclusion, the Tribunal took into account the following:

    84.1. Medical evidence from 3 February 2025 indicated that the claimant had *'**a history** of anxiety, panic attacks, visual hallucinations and possible PTSD'* and that his symptoms had **become worse** in October

2024, leading to repeated panic attacks at work, following a period when he had been unable to sleep for months (emphasis added, taken from paragraph 14 above), and that trauma occurred in childhood and symptoms, including anxiety, arose from that. The Tribunal concluded from this that the claimant had experienced the substantial adverse effects from well before October 2024 and the effects had, as at February 2025, lasted 12 months;

84.2. The claimant was, from November 2024, undertaking anxiety work with a CPN, which led to the effects of his impairment being managed/controlled, such that he was certified as fit to return to work by his GP and Psychiatrist from May 2025 onwards. The Tribunal concluded, from the medical evidence produced, that the effects would likely have continued but for that treatment. In addition, there was no suggestion that the claimant had been 'cured' by the anxiety work via the CPN and would not require any future treatment. The Tribunal concluded that, as at February 2025, it was likely (or could well be the case) that the claimant would experience substantial adverse effects from trauma related/induced anxiety again in the future. Indeed, it was noted in the Consultant Psychiatrist report of 9 March 2025, that *'there may be a role for trauma work in the future'* suggesting that the effects were likely to recur in the future.

85. For these reasons the Tribunal concluded that the claimant was a disabled person, as a result of trauma related/induced anxiety, from February 2025

Functional neurological disorder, resulting in seizures

86. **Does the claimant have a physical or mental impairment?** The claimant did not establish that he had Functional Neurological Disorder. While he suspected this may be the case, there was no medical evidence confirming this and the claimant confirmed that, as at the date of the final hearing, he had not received any diagnosis of this. In relation to seizures, the only medical evidence produced simply stated what the claimant had told medical professionals. That evidence did not however support that the claimant was experiencing seizures. His Consultant Psychiatrist and GP in fact both stated that, in their opinion, what he was experiencing were not seizures (see paragraph 45 above). The Tribunal accordingly concluded that the claimant did not demonstrate that he had the impairment he relied upon. The Tribunal noted that no medical evidence was produced confirming any diagnosis or prognosis in relation to the symptoms the claimant was experiencing, or pointing to any physical or mental impairment as the cause.

87. **Was there an adverse effect on the claimant's ability to carry out day-to-day activities as a result of the impairments?** It was not disputed however

that the claimant experienced situations where he could not move for several hours. The Tribunal concluded that there was, in those periods, an adverse effect on the claimant's ability to carry out day-to-day activities. He could not move for significant periods.

88. **Was that effect substantial?** The Tribunal was satisfied that the adverse effects on the claimant's ability to carry out day-to-day activities was substantial (i.e. more than minor or trivial).

89. **Was that effect long-term?** The Tribunal was not however satisfied that the substantial adverse effects were long-term. It is clear that the adverse effects started in October 2025. The Tribunal considered whether, in the period from October 2025 to the point the claimant applied to amend his claim on 19 February 2026 (the **Relevant Period**), it could be said that the adverse effects the claimant experienced were long term. In the absence of any medical evidence in relation to cause of adverse effect, or the prognosis, it could not be said that, at any point in the Relevant Period, those adverse effects were likely (as defined in ***Boyle v SCA Packaging Ltd***) to last more than 12 months.

90. For these reasons the Tribunal concluded that the claimant was not a disabled person, as a result seizures arising from FND, at the relevant times.

Reasonable adjustments

91. The Tribunal considered whether the respondent had a PCP of requiring occupational health clearance before allowing employees to return to work. The Tribunal concluded that respondent did have this PCP. That is clear from the findings in fact set out above, and the fact that, despite the claimant stating he wished to return, and evidence from the claimant's GP and Consultant Psychiatrist, in May 2025, that the claimant was fit to return, the respondent would not permit this without clearance from occupational health. Similarly, when the GP issued a fit note stating that the claimant may be fit with reduced hours in January 2026, he was again not permitted to do so without clearance from occupational health.

92. The Tribunal considered whether the respondent's PCP of requiring occupational health clearance before allowing employees to return to work placed the claimant at a substantial disadvantage, as a result of disability, compared to someone without the claimant's disabilities. The Tribunal concluded that the PCP, of itself, did not place the claimant at a substantial disadvantage, as a result of disability, in comparison to someone without the claimant's disability. Any disadvantage he experienced in May 2025 was not from the PCP itself, but from the conclusion reached by occupational health, on that particular occasion, and the fact that it differed from the opinion of

other medical professionals. Had occupational health agreed with the claimant's GP and Consultant Psychiatrist, the claimant would simply have returned to work and no question of disadvantage would have arisen. Alternatively, had the claimant's GP and/or Consultant Psychiatrist stated that the claimant was not fit to work, and occupational endorsed that view, there would be no disadvantage in comparison to someone without the claimant's disability. Given these findings, the Tribunal concluded that claimant has not established that the PCP asserted placed him at a substantial disadvantage in comparison to others without his disability and the duty to make reasonable adjustments was not triggered.

93. The Tribunal then considered whether the claimant was placed at a substantial disadvantage, in comparison with persons who are not disabled, as a result of the failure to provide him with a private office. The Tribunal considered this with reference to the third requirement, under section 20(5) EqA. The Tribunal did not accept the respondent's evidence and submission that this had not previously been provided as a reasonable adjustment for the claimant. It was clear from the note issued by DK in November 2023 (paragraph 12) that a private office was provided, at that time, to alleviate disadvantage arising from the symptoms of his ASD (*'…to combat these issues as best as possible, we have provided William with an office which he resides in alone…)*, in particular reducing noise sensitivity and giving him the ability to concentrate on tasks, without distractions, as deviation from structured routines caused stress and anxiety. When the claimant returned to work in October 2025 however, the circumstances were different. The position at that time was that occupational health and CB both stated that, given the claimant's position at that time, working in a private office would be detrimental to his health. In addition, he had been provided with glasses and earbuds to reduce sound and light sensitivity. The provision of earbuds also provided the claimant the ability to concentrate on tasks without surrounding sounds distracting him. Further, when he in fact returned to work in a shared office, no issues arose. He stated at a review meeting (see paragraph 43) that he had only used his glasses a couple of times, and had not required to use his earbuds at all. He reported no stressors or challenges on his return to work and raised no concerns about his work location. No evidence was given of any disadvantage suffered by the claimant, following his return to work in October 2025, as a result of the respondent failing to provide him with a private office. In these circumstances there was no duty on the respondent to provide the claimant with a private office in October 2025, and they did not fail to make reasonable adjustments in relation to this.

94. For these reasons, the claimant's complaint that the respondent failed to make reasonable adjustments does not succeed and is dismissed.

Discrimination arising from disability

95. In relation to the claims of discrimination arising from disability the Tribunal considered each asserted act of discrimination arising from disability with reference to the guidance in ***Pnaiser***, considering whether the asserted treatment occurred, whether it amounted to unfavourable treatment (i.e. was it something about which a reasonable person would complain?) and, if so, whether something arising in consequence of the claimant's disability significantly (i.e. more than trivially) influenced that treatment. The Tribunal reached the conclusions set out below.

Refusing to allow the claimant to return to work without occupational health authorisation, where the claimant disagreed with the content of the relevant reports (April, May and November 2025).

96. The Tribunal accepted that this occurred in the period from May 2025, and in January 2026. The Tribunal accepted that this was unfavourable treatment: the claimant felt he was fit to return to work, and had medical evidence to support that, but the respondent refused to allow him to do so. The Tribunal considered whether something arising in consequence of the claimant's disability influenced this and, if so, whether that was influence was more than minor or trivial.

97. In relation to the refusal to allow the claimant to return to work in May 2025, the claimant asserted that it was because he experienced a mental health crisis on 30 September 2024, which arose in consequence of disability, namely trauma related/induced anxiety. The Tribunal accepted that the claimant's mental health crisis, and the statements he made in the course of that, arose in consequence of his trauma induced anxiety. The Tribunal concluded that the respondent was aware, as at May 2025, that the claimant had trauma induced anxiety: they had been informed of this by the claimant and in numerous medical reports. The Tribunal concluded that that the mental health crisis, and the statements the claimant made in the course of this, did influence the respondent's treatment of the claimant, and that influence was more than minor or trivial: the respondent repeatedly stressed in their evidence that, given the circumstances leading up to the claimant's absence and what he stated on 30 September 2024, in this case in particular, they needed certainty that he was fit to return, and that he was not a risk to himself or others on his return. They relied on this as a significant (more than minor or trivial) reason for why occupational health also required to state that he was fit to return to work, before he did so. Objectively speaking therefore, there was a clear causal link between the claimant's mental health crisis, and the statements he made in the course of that, which arose in consequence of his disability, and the respondent's refusal to allow him to return to work from May 2025 onwards.

98. The respondent stated that refusing to allow the claimant to return to work in May 2025, when the claimant disagreed with the content of the AMS Report, was a proportionate means of achieving legitimate aim, namely: (a) protecting the claimant's own health and safety, given the serious disclosures he had made about his mental state and the period of time the claimant had been absent from work; (b) ensuring that any return to work was properly medically supported; and (c) protecting the health, safety and welfare of the claimant's colleagues (the **Stated Aims**). The Tribunal accepted that the respondent had the Stated Aims, and that they were legitimate aims.

99. The Tribunal then considered whether the unfavourable treatment established was a proportionate means of achieving the Stated Aims. The Tribunal was mindful that, in order to be proportionate, the measure has to be both an appropriate means of achieving the aim relied upon and also reasonably necessary in order to do so, and that the respondent's reasonable needs should be balanced against the discriminatory effect on the claimant.

100. In relation to the second Stated Aim, and part of the first Stated Aim (namely ensuring the claimant's health and safety, given the period of time he had been absent from work), the respondent had in their possession:

    100.1. A letter from the claimant's treating Consultant Psychiatrist, dated 9 March 2025, stating that she supported him returning to work and she did not need to see him again for 6 months;

    100.2. A further report from the claimant's treating Consultant Psychiatrist, dated 13 May 2025, confirming that he was not on medication, that he was attending a CPN and undertaking anxiety work, but restating that she had no objection to him returning to work: indeed she thought this would be *'beneficial to his mental health overall';* and

    100.3. A letter from the claimant's GP, dated 15 May 2025, stating that his *'mental health difficulties have improved and functioning well'*, and he was fit to return to work on a phased basis.

101. A return to work was accordingly properly medically supported by the claimant's treating Consultant Psychologist and his GP. It was not a proportionate means of ensuring a return to work was properly medically supported for the opinion of those medical professionals to be overruled by a Nurse (RS) who had not seen or assessed the claimant, particularly when she purported to rely solely on the reports provided to her, but she:

    101.1. Stated that there had been *'no real change to his mental health',* which directly contradicted the GP's statement, less than a week before, that his *'mental health difficulties have improved and functioning well'*; and

101.2. Relied on the fact that he was not taking mediation and had continuing engagement with the mental health services, both of which had been expressly mentioned by the claimant's treating Consultant Psychiatrist, immediately before the Consultant Psychiatrist stated (again) that she would support him returning to work, and felt him doing so would be beneficial to his mental health overall.

102. Despite these stark inconsistencies, the respondent took no steps to seek clarification from AMS on how they had reached the conclusions they did – without seeing or speaking to the claimant and based on the reports they had. Instead, they simply accepted what was stated in the AMS Report, feeling they could not and should not question or challenge this, despite the concerns the claimant repeatedly highlighted to them about the inconsistencies in the AMS Report, the manner in which it was prepared and the detrimental impact their decision was having on him.

103. Taking these points into account, the Tribunal concluded that refusing to allow the claimant to return to work in May 2025, when the claimant disagreed with the content of the AMS Report, was not an appropriate means of achieving the aims relied upon, nor was it reasonably necessary in order to do so. The respondent could and should have challenged how and why AMS reached the conclusions they did, given the circumstances, and taking into account the fact that they were aware their refusal to allow the claimant to return to work would have a detrimental impact on the claimant's mental health. The respondent repeatedly stated in evidence however that they felt that they were unable to challenge the conclusions reached by AMS, or seek clarification of how they did so. That was not a reasonable position to adopt, particularly taking into account the discriminatory effect on the claimant of the respondent following a report with such stark inconsistencies.

104. In relation to the remaining part of the first Stated Aim, and third Stated Aim, the Tribunal concluded that refusing to allow the claimant to return to work in May 2025, when the claimant disagreed with the content of the AMS Report, was not an appropriate means of achieving these aims, nor was it reasonably necessary in order to do so. If the respondent was concerned about safety of the claimant and/or his colleagues, they could have taken steps to investigate whether the claimant had, in fact, ever harmed himself or others. While he stated this on 30 September 2024, in the course of a mental health crisis, the respondent did not have any evidence that he had in fact done so. They did however have medical evidence that he experienced visual and auditory hallucinations, associated with increased anxiety and worry. The report from AMS in February 2025 specifically stated that the claimant was *'confused as to whether these feelings* [that he was capable of hurting others] *were based on real events or hallucinations.'* There was accordingly a suggestion that the

claimant had not in fact harmed himself or others in the past, but hallucinated that he had done so. The respondent took no steps whatsoever to investigate this further, for example by asking his Consultant Psychiatrist about this. If he had in fact done so, they could have investigated circumstances of that and whether he was likely to do so in the future, in the workplace, to address any concerns which there may be. The respondent did not however ask AMS to address this, and AMS did not provide a view on this. In these circumstances, it was not an appropriate means of ensuring safety of the claimant and his colleagues in the workplace to simply refuse to allow the claimant to return to work, nor reasonably necessary in order to ensure that, particularly given that the respondent had, in their possession, a letter from the claimant's treating Consultant Psychiatrist which stated that '*There was no suggestion of a risk of harm to himself or others'.*

105. For these reasons, the Tribunal concluded that refusing to allow the claimant to return to work in May, when the claimant disagreed with the content of the OH report, was not a proportionate means of achieving the legitimate aims relied upon.

106. In relation to the refusal to allow the claimant to return to work in January 2026, the claimant asserted that it was because he experienced seizures as a result of FND. As the Tribunal concluded that the claimant has not demonstrated that he was a disabled person, at the relevant times, as a result of FND causing seizures, any complaint of discrimination arising from disability related to that asserted impairment cannot succeed.

Referring to the claimant's conditions in a team brief to colleagues, on or around 10 October 2025.

107. There was no dispute that this occurred. DK gave evidence that she did so. The Tribunal considered whether this constituted unfavourable treatment, noting that, in determining this, no question of comparison arises. The EHRC Employment Code indicates that unfavourable treatment is treated synonymously with disadvantage. It is something about which a reasonable person would complain. Taking that into account, the Tribunal found that the claimant was not treated unfavourably. The Tribunal noted that the claimant had asked, on 16 September and 8 October 2025 (paragraphs 38 & 40 above), that his immediate colleagues be informed that he experienced tics and stuttering. DK agreed to do so. She sent an email to the claimant confirming that she would do so and he did not raise any concerns in relation to this. She did so on 10 October 2025. The claimant does not take issue with her stating that he may have a stutter or a tic, but states she should not have mentioned that he was autistic, or that he experienced sensory sensitivities. The Tribunal accepted that she did so in an effort to provide some context to the claimant's colleagues, so they could better understand and support him,

on his return. She understood that the tics and stutter were related to ASD, and mentioned this so that colleagues could understand why he may experience stutters and tics. She knew that the claimant may be wearing coloured glasses and/or earbuds on his return and wanted to ensure that colleagues understood why he may be doing so. She did so in a reasonable and sensitive manner. Given that the claimant had asked her to speak to the team, it did not amount to unfavourable treatment for her to do so. Even if the Tribunal had not reached that conclusion however, the Tribunal would have concluded that her mentioning ASD and sensory sensitivities was, in the circumstances, a proportionate means of achieving the legitimate aim of ensuring that the claimant's colleague could better understand and support him, on his return, in accordance with his request. The complaint of discrimination arising from disability in respect of this does not, accordingly succeed and is dismissed.

Referring to the claimant's conditions during the grievance procedure.

108. The claimant confirmed that this related to AB's comment, in the grievance appeal meeting, and in the grievance appeal outcome letter, which is recorded at paragraph 34. There was no dispute that he did so. The Tribunal concluded that this did not amount to unfavourable treatment. It was not something about which a reasonable person would complain. The claimant had himself raised that the process had triggered trauma symptoms. In response to him doing so, it was right and proper for AB to ask whether those symptoms impacted the claimant's fitness for work. The claimant confirmed that they did not, and AB accepted that. That does not constitute unfavourable treatment. The complaint of discrimination arising from disability in respect of this does not, accordingly succeed and is dismissed.

Unauthorised deductions from wages

109. The Tribunal noted that the claimant received SSP up to 30 April 2025. He did not assert he was entitled to any further payment in that period. The Tribunal considered whether the claimant had demonstrated that he had a contractual or legal entitlement to any further payments from 1 May 2025 onwards. The Tribunal noted that the claimant produced a fit note to the respondent, dated 15 May 2025, indicating that he was fit to return on phased basis, over a 6 week period. No other adjustments were stated as being required to enable the claimant to return to work. The Tribunal concluded that from 15 May 2025, when the respondent received the fit note confirming the claimant was fit to return on a phased basis, the claimant was ready, willing and able to return to work, albeit only on a phased basis. Whilst that was not accommodated by the respondent, the respondent could readily have done so. There was no requirement to re-refer the claimant to occupational health before the claimant returned to work. The claimant should not be penalised

for the respondent wishing to do so. As the claimant was ready, willing and able to work, he had a legal entitlement to wages from 15 May 2025. The Tribunal were not referred to any contract of employment, Statement of Terms and Conditions or other document authorising the respondent to withhold wages, or documenting the claimant's consent in writing to this.

110. In these circumstances the Tribunal concluded that the complaint of unauthorised deductions from wages succeeds.

Remedy

111. Having found that the complaints of discrimination arising from disability and unauthorised deductions from wages succeed, the Tribunal moved on to consider remedy.

Discrimination arising from disability - financial loss

112. In relation to the complaint of discrimination arising from disability, as indicated in paragraphs 23 & 109 above, the claimant was ready, willing and able to return to work from 15 May 2025. The Tribunal concluded that, had he returned to work the following week (week commencing 19 May 2025) he would have completed a phased return, over a 6 week period (as per the plan ultimately agreed – see paragraph 39), but would have then remained at 4 days per week (which he had stated was his preference, rather than returning to 5 days per week), until he started to experience seizures, on 6 October 2025. There was no evidence before the Tribunal suggesting that he was unable to work in the period up to 6 October 2025, or that he would not have been able to successfully complete the phased return at that stage. There was no evidence before the Tribunal in relation to the cause of the seizures the claimant reported experiencing from 6 October 2025. In these circumstances, the Tribunal concluded that they would still have occurred, rendering the claimant able to work no more than 2 days per week from that point, until he became unfit to work in November 2025. The period of financial loss accordingly runs from 15 May to 6 October 2025 (as the claimant was being paid 2 days per week in October and November).

113. The Tribunal concluded that the claimant would have earned the following gross sums in that period:

19-30 May 2025 – 2 weeks at 2 days per week	£ 403.20
2 -13 June 2025 – 2 weeks at 3 days per week	£ 604.80
16 June to 3 Oct 2025 – 16 weeks at 4 days per week	£6,451.20
Total	£7,459.20

Less sums paid from 18 Aug to 3 Oct 25 (7 weeks x 2 days) £1,411.20

Total Financial Loss **£6,048.00**

114. Interest is also payable on that sum, at a rate of 8%, and amounts to **£300.25**

Discrimination arising from disability - injury to feelings

115. The claimant raised two grievances in June 2025, after he was informed that the respondent had decided that he could not return to work, and then appealed against the grievance outcomes. He set out his grievances and appeal how he was feeling at that time. Relevant sections of those emails, which the Tribunal accepted were a genuine reflection of how the claimant felt at that time, are replicated in paragraph 26, 27 and 31 above. The Tribunal accepted that returning to work would have been particularly beneficial for the claimant, given his medical conditions, as they would have provided a routine/structure and social interaction.

116. In these circumstances, the Tribunal was satisfied that an award of **£6,000** was appropriate award for injury to feelings, that being in the middle of the lower Vento band (as uplifted) at that time. Interest of **£595.73** is also payable on that sum.

Unauthorised deductions from wages

117. The Tribunal's award for in respect of the complaint of discrimination arising from disability covers the sums deducted. No further award is accordingly made. Had the Tribunal not upheld the complaint of discrimination arising from disability, it would have made an order, under this complaint, for the respondent to pay the sums set out in paragraph 113 to the claimant.

Date sent to parties 17 August 2026

SCHEDULE TO JUDGMENT

List of issues

1. Disability status – s6 Equality Act 2010 (EqA)

1.1. Was the claimant a disabled person in accordance with the EqA at all relevant times because of trauma induced anxiety and/or functional neurological condition resulting in seizures?

2. Discrimination arising from disability – s15 EqA

2.1. Has the respondent shown that it did not know, and could not reasonably have been expected to know, that the claimant had the disability?

2.2. Was the claimant treated unfavourably by:

2.2.1. Refusing to allow the claimant to return to work without occupational health authorisation where the claimant disagreed with the content of the relevant reports (in April, May and November 2025)

2.2.2. Refer to the claimant's conditions in a team brief provided to colleagues on or around 10 October 2025; and/or

2.2.3. Refer to the claimant's conditions during the grievance procedure.

2.3. Did the following arise in consequence of the claimant's disability?

2.3.1. He experienced a mental health crisis on 30 September 2024; and/or

2.3.2. He experienced stuttering and tics.

2.4. Was the unfavourable treatment because of any of the things that arose in consequence of the claimant's disability?

2.5. If so, was the treatment pursuant to a legitimate aim, namely:

2.5.1. Ensuring the claimant was medically fit to return to work;

2.5.2. Protecting the health, safety and welfare of the claimant;

2.5.3. Protecting the health, safety and welfare of the respondent's workforce; and

2.5.4. Ensuring safe and reliable attendance at work.

3. Reasonable adjustments - s20 & 21 EqA

3.1. Did the respondent have a practice of requiring Occupational Health clearance before allowing employees to return to work? If so, did that put the claimant at a substantial disadvantage compared to someone without the

claimant's disability, in that he was not permitted to return to work despite being fit to do so?

3.2. Did the removal of the provision of a private office for the claimant, put the claimant at a substantial disadvantage compared to someone without the claimant's disability, in that he found it difficult to manage sensory sensitivities and work effectively?

3.3. If so, did the respondent know or could it reasonably have been expected to know the claimant had a disability and was likely to be placed at any such disadvantage?

3.4. If so, would the steps identified by the claimant, namely:

3.4.1. Reinstating a private office or the claimant;

3.4.2. Taking into account all medical evidence (including from the claimant's GP) before taking a decision as to whether the claimant should return to work; and/or

3.4.3. Allowing the claimant to return to work on a phased basis

have alleviated the identified disadvantage?

3.5. If so, would it have been reasonable for the respondent to have taken that step at any relevant time and did they fail to do so?

4. Unauthorised deductions from wages – s13 ERA

4.1. Did the respondent make unauthorised deductions from the claimant's wages between May and October 2025, and from November 2025 onwards, on the basis that his position was that he was fit to return to work and the respondent would not permit him to do so.

4.2. If so, how much was deducted?

5. Remedy

5.1. If the claimant establishes any of their complaints, to what remedy are they entitled?