



EMPLOYMENT TRIBUNALS

Claimant: Jan Nordman

Respondent: Lidl Limited

Heard at: London South (in private; By Video)

On: 11th June 2026

Before: Employment Judge Tueje

REPRESENTATION:

Claimant: In Person

Respondent: Ms Williams (Consultant)

JUDGMENT ON RECONSIDERATION

1. The claimant's request for reconsideration is refused, and the Tribunal's judgment that the claimant was not disabled at the material time, is confirmed.

REASONS

2. There is no reasonable prospect of the original decision being varied or revoked for the reasons set out below.

BACKGROUND

3. The claimant was employed by the respondent from 17th July 2024 until termination of his employment. The claimant states he resigned on 28th August 2024, whereas the respondent states he resigned on 1st September 2024. Early conciliation started on 29th July 2024, and ended on 15th August 2024. The claim form was presented to the Tribunal on 28th August 2024.
4. The claimant's claim as presented, was for constructive unfair dismissal, arrears of pay / other payments. There was also a claim for disability discrimination, which the claimant clarified comprises complaints of direct discrimination, failure to make reasonable adjustments, and discrimination arising from disability.

5. The request for reconsideration was e-mailed to the Tribunal on 11th June 2026, and it was forwarded to me on 15th June 2026. It requested reconsideration be dealt with by a different judge. In addition, the claimant had requested written reasons at the hearing on 11th June 2026. Also, on 11th June 2026 the claimant submitted an application for my recusal, which was again forwarded to me on 15th June 2026. Notwithstanding the claimant's application for my recusal, Regional Employment Judge Khalil allocated this application to me to deal with.
6. Because all of these applications are interrelated, it has taken some time to deal with them all. I have now dealt with these applications, and have issued separate judgments and decisions in respect of each one.

APPLICATIONS FOR RECONSIDERATION

7. By rules 70 and 71 of the Employment Tribunals Rules of Procedure 2024 a Tribunal may reconsider any judgment on the application of a party, where it is necessary in the interests of justice to do so. Under rule 70(2) of the 2024 Rules an Employment Judge shall consider any such request, and:

"... If the judge considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the tribunal must inform the parties of the refusal."
8. The claimant's application relies on nine grounds. I have considered each ground, which in my judgment, largely amount to disagreement with findings and evaluative conclusions reached, or seeking to raise matters which could have, but were not, raised during the hearing. In the circumstances, I do not consider it is necessary in the interests of justice to vary my decision. In fact it would be contrary to the interests of justice to do so, in particular, when having regard to the need to have finality in proceedings.
9. The application is therefore refused, and the decision made on 11th June 2026 is confirmed.

REASONS

Ground 1: Application of the wrong legal test

10. The claimant submits that the Tribunal applied the wrong legal test when considering whether any adverse effect was long-term. He contends that the Tribunal applied a probability test when it should have considered whether the impairment "could well" last for twelve months.
11. I do not accept that submission. The correct statutory test was applied. My reasons set out the relevant provisions of the Equality Act 2010, acknowledging that for an effect to be long-term it must last, or be likely to last, for at least twelve months. That is the language used in the legislation. My conclusion was based on the lack of medical or other evidence dealing

with the frequency or duration of any triggering periods that would enable an assessment of whether the mental impairment had a substantial effect, or of evidence dealing with a prognosis to determine whether it was long term.

12. In any event, based on the medical evidence provided which covered April 2024 to September 2024 and contained no prognosis, even applying the “could well” test, the application would fail because there was insufficient evidence to conclude that the effects of the impairment would last beyond that period.

Ground 2: Failure to consider long-term history from 2014 to 2024

13. The claimant submits that there was a failure to consider that his condition began in 2014 and had continued or recurred thereafter.
14. This submission is contrary to my stated reasons, which expressly considered the claimant's reliance upon the Finnish medical records from 2014. I accepted that those records demonstrated a diagnosis of moderate depressive disorder in 2014. I also took into account the claimant's submission that the records demonstrated a long history of mental health difficulties extending from 2014 through to 2024. However, I did not accept that submission for two reasons. Firstly, there was no evidence covering the intervening ten-year period and therefore no evidential basis for concluding that the condition identified in 2014 was the same condition present in 2024. Secondly, the claimant's disability impact statement stated that there were periods of exacerbation in his condition: he refers to being trigger by various situations. However, there was no evidence regarding how frequently this occurred such that it adversely affected his ability to carry out day-to-day activities, nor how long these periods typically lasted. Accordingly, there was insufficient evidence to establish a substantial adverse effect during the relevant period.
15. Additionally, my analysis accepted that a recurring condition may satisfy the long-term requirement. However, the evidential difficulty was that there was insufficient evidence during the intervening period to establish continuity or recurrence of the same impairment.
16. My decision regarding whether the effect of the mental impairment was long-term is dealt with at paragraphs 55 to 61 of my written reasons.

Ground 3: Failure to consider medical evidence showing ongoing impairment

17. The claimant submits that the Tribunal ignored relevant medical evidence including fit notes, crisis intervention evidence, concentration difficulties and functional limitations.
18. The medical evidence was taken into account: the written reasons identify and summarise each category of medical evidence relied upon by the claimant, namely:
 - 17.1 The Finnish medical records (see paragraph 6.1);

- 17.2 The GP diagnosis of mixed anxiety and depressive disorder (see paragraph 6.2);
 - 17.3 The wellbeing practitioner correspondence (see paragraphs 6.3 to 6.5);
 - 17.4 The fit notes issued in August and September 2024 (see paragraphs 6.6 and 6.7).
19. Furthermore, I accepted that the claimant had established the existence of a mental impairment. My conclusions on substantial adverse effect and long-term effect were reached after considering the medical evidence, it is not that this evidence was overlooked or disregarded.
20. Although not medical evidence, I took into account the claimant's evidence regarding sleep disturbance and concentration difficulties. It is unclear what the claimant means by functional limitations, where a limitation was specified, I took it into account. As to deterioration caused by workplace stress, because deterioration is relative, that is not directly relevant to whether an impairment or the effect of the impairment is substantial or long term.

Ground 4: Failure to apply guidance regarding recurring and fluctuating conditions

21. The claimant contends that there was a failure to apply the statutory guidance concerning recurring and fluctuating conditions.
22. The claimant's case was that his mental impairment was triggered by various situations. My analysis accepted that the claimant relied upon a fluctuating condition and I applied the statutory guidance relating to fluctuating conditions. That is evident from the fact that I dealt with the absence of evidence regarding the frequency and duration of these periods of exacerbation. That analysis is only relevant when dealing with a fluctuating condition, and is therefore in accordance with paragraph 2(2) of schedule 1.
23. As to reoccurrence, I have already stated that there was no evidential basis on which I could find that the condition identified in 2014 was the same condition present in 2024.
24. In the circumstances, I considered whether the evidence was capable of establishing continuity or recurrence and concluded that the absence of evidence concerning the intervening period meant that the claimant had failed to establish that requirement.

Ground 5: Failure to consider work-related deterioration

25. The claimant contends that work-related events worsened his condition and that the Tribunal failed to take that into account.
26. In various documents submitted for the hearing the claimant argued that events at work had caused a deterioration in his health, but he did not argue that was evidence that his condition was long-term. It was addressed by Ms Williams, who argued that as his fit notes showed a diagnosis of work-related

stress, that was evidence that his condition was not long term. She argued that once the stressor of working for the respondent was removed, it was likely he would recover from any deterioration in his health. However, as the claimant did not make any submissions on this point, I did deal with it in my reasons. Having failed to raise this point at the preliminary hearing, it is not appropriate for the claimant to seek to argue it now.

27. As to the points the claimant raised regarding work-related stress, I accepted that he experienced mental health symptoms during the relevant period, and I considered his evidence regarding workplace stress and its impact upon him. However, even if workplace events contributed to his symptoms, the claimant still bore the burden of establishing a substantial and long-term adverse effect within the meaning of the Act.
28. Any deterioration in the claimant's condition would be relative and would not, without more, establish that the resulting adverse effect was substantial. I acknowledge that the claimant relied on fit notes certifying him as unfit for work. Whilst those fit notes may support the existence of an adverse effect, they cover only a period of approximately six to seven weeks and are therefore insufficient, without more, to establish that any adverse effect was long-term.

Ground 6: Improper factual findings at a preliminary hearing

29. The claimant submits that the Tribunal should not have made findings concerning duration, prognosis or functional impact at a preliminary hearing.
30. However, the preliminary hearing was listed specifically to determine whether the claimant was a disabled person for the purposes of section 6 Equality Act 2010 (see paragraph 50 below). The determination of that issue necessarily required findings concerning impairment, adverse effect, substantiality and duration.
31. Therefore, the issue of disability status had been expressly identified for determination at the preliminary hearing by the case management orders made on 11th June 2026, and the parties were therefore on notice that findings relevant to section 6 Equality Act 2010 would be required.
32. Indeed, the claimant prepared an (undated) statement for the preliminary hearing titled "STATEMENT TO THE JUDGE ABOUT MENTAL IMPAIRMENT & DISABILITY", which combined with his disability impact statement, it meant I had evidence from him on which to base the findings of fact that I made regarding his disability.

Ground 7: Failure to apply case law

33. The claimant did not rely on any case law at the preliminary hearing, but refers to a number of authorities in his reconsideration application which he states were not applied in this case. The cases he refers to are addressed below.

34. McDougall v Richmond Adult Community College: I considered that the correct test of whether the impairment was "likely" to last had been applied. Although McDougall was not expressly cited, the legal approach derived from it was followed.
35. Goodwin v Patent Office: I considered that the four-stage disability test from Goodwin had been applied.
36. SCA Packaging Ltd v Boyle: even assuming this case establishes the proposition for which the claimant relies on it, it would not affect the outcome because the case primarily concerns disregarding the effects of medical treatment. The claimant's case is that due to his sporting commitments he did not take prescribed medication. No other treatment is referred to.
37. J v DLA Piper UK LLP: Again, even if one assumes assuming this case establishes the proposition for which the claimant relies on it, it would not affect the outcome because I accepted the claimant's medical evidence, the issue is that evidence was limited.
38. Kapadia: I understood the claimant to rely on this authority for the proposition that a person may be disabled while still working. My decision was not based on the claimant being employed, so I did not consider the case relevant.
39. Morgan and Sobhi: From the information provided, the claimant did not provide sufficient citation details to enable me to confidentially identify the former case. However, the claimant seems to rely on these to establish that a fluctuating condition can be long term. That is not inconsistent with my finding.
40. Adoremi: I adopted the approach in this case by considering what the claimant could not do.
41. Jelic: the claimant relies on this for its reasoning regarding employer-exacerbated conditions. Although the case is not referred to in my written reasons, I have addressed this issue.
42. Herry: is relied on to establish that there must be a consideration of recurrence and functional impact, that approach was followed in this case.

Ground 8: Failure to consider substantial adverse effect

43. This ground is contradicted by the written reasons themselves.
44. This is dealt with at some length in the written reasons. I considered the claimant's evidence regarding concentration, social interaction, work, isolation and negative thoughts, explaining why I was not satisfied that the evidence established effects which were more than minor or trivial, because it provided no evidence regarding frequency, duration and severity.
45. Aside from the GP fit notes, the medical evidence did not address the claimant's functionality.

46. The written reasons set out at paragraphs 45 to 53, why I was not satisfied that the claimant's mental impairment had a substantial adverse effect on his ability to carry out day-to-day activities.

Ground 9: Procedural unfairness

47. The claimant contends that he was unwell, unrepresented, insufficiently warned, not given an opportunity to address my concerns, and unable fully to present his evidence.
48. At the start of the hearing the claimant did not say he was unwell and he did not ask for an adjournment. Later in the hearing, after I had given my decision finding that he was not disabled, he explained he felt unwell and asked for a short break, which we took.
49. I accept that the claimant represented himself. However, self-representation does not of itself render proceedings unfair. I made allowances for him being a litigant in person by explaining matters in more detail, and allowing him to rely on various documents sent as attachments which were in addition to the hearing bundle.
50. Paragraph 12.1(ii) of the case management order dated 15th June 2026 stated that one purpose of the further preliminary hearing was to consider whether the claimant was disabled. Paragraph 12.1(iii) also stated the further preliminary hearing would deal with any application by the respondent to strike out part or all of his claim, which for all material purposes has the same effect as the dismissal order that I made.
51. When dealing with whether the claimant was disabled I began by hearing the claimant's submissions, then the respondent's submissions, followed by the claimant making additional submissions in response. He was therefore allowed an opportunity to make submissions. After I gave my decision finding he was not disabled, he tried to make further submissions maintaining that he was disabled. I explained to him that I had reached a decision and would not be hearing further argument on the point. I believe that is what he is referring to when he complains he was not allowed to address my concerns. However, it was not appropriate for him to continue making submissions about a point I had addressed.
52. The claimant had sent multiple documents which he wished to rely on at the hearing. Therefore, I spent a considerable amount of time at the start of the hearing ensuring that I had all documents that he wanted to rely on, including all medical documents. In fact, in his 1-page statement on disability, he stated that he relied on the medical evidence at pages 70 to 80 of his bundle, but his bundle only went up to page 70. I asked him about this at the start of the hearing, and he clarified that this was an error and that all the medical evidence he wanted to rely on was in the hearing bundle prepared by the respondents. I note that the claimant has now provided documents in support of his application for reconsideration which bear pages numbers 71 to 80, however, these were not part of his bundle of documents relied on before me.

53. The written reasons demonstrate that I considered the claimant's documentary evidence, his written statements and oral submissions in significant detail. I also considered such other documents that were relevant.
54. I am not satisfied that the claimant has identified any procedural irregularity which affected the fairness of the hearing or the outcome.

Relief sought

55. Given my conclusions in respect of grounds 1 to 9, the claimant is not granted the relief sought.

Conclusion

56. Taken together, the grounds do not identify any overlooked evidence, procedural irregularity, error of law, or other matter making reconsideration necessary in the interests of justice. Therefore, I do not consider there is a reasonable prospect of the judgment being varied or revoked.
57. Accordingly, the claimant's application for reconsideration is refused.

Approved by:
Employment Judge Tueje

Date: 13th July 2026