EMPLOYMENT TRIBUNALS

Claimant: Mr J Thorne

Respondent: Lyreco UK Ltd

Heard at: **Bristol** **On:** **21 August 2026**

Before: **Employment Judge Livesey**

Representation
Claimant: In person
Respondent: Mr Wright, counsel

JUDGMENT

1. The Claimant was not disabled at the material time and his complaints that there were failures to make reasonable adjustments are dismissed.

2. The remaining complaint of constructive unfair dismissal proceeds to a final hearing in accordance with the Case Management Order of even date.

REASONS

1. By a Claim Form dated 29 July 2025, the Claimant brought complaints of unfair dismissal and discrimination on the grounds of disability. Following the filing of a response, the Tribunal directed the Claimant to provide a disability impact witness statement and any supporting medical evidence. An impact statement was provided in early February and the Respondent stated its position on disability by letter dated 26 February; it remained in dispute.

2. The case then came before Employment Judge Smail on 13 May 2026 when he conducted a Case Management Preliminary Hearing. He listed a final hearing over five days in July 2027 and a Preliminary Hearing in order to determine the issue of disability. The Claimant's disability was recorded as 'anxiety and depression' (paragraph 3.1.1 of the Case Summary).

<u>Evidence</u>

3. The Claimant filed a consolidated impact statement on 30 July. He gave evidence in support of that statement at the hearing and was cross examined upon it and other documents.

4. A Preliminary Hearing bundle was provided which contained the relevant evidence, the electronic pages to which had been referred to in square brackets below.

5. The Respondent's counsel provided a Skeleton Argument in support of his closing submissions.

Factual findings

6. The Claimant's employment, as a Regional Distribution Centre Manager, ended on 20 May 2025. He had then been employed by the Respondent for 24 years.

7. In his witness statement, he stated that he had not experienced mental health difficulties before late 2023. When he did, he was not able to distinguish between work-related stress, burnout, anxiety and depression (paragraph 2). A private GP had described it as 'burnout' and 'work-related stress' in December 2024, but his NHS GP later treated him for depressive symptoms.

8. He said that he first realised that something was starting to go wrong in late 2023 and that he then raised the issue during his annual appraisal in February 2024; that he was repeatedly working long hours and was under significant stress at work (paragraph 3). The notes of that appraisal referred to 'stresses' which had 'taken their toll' on him 'mentally and physically both at work and at home', but he said that he remained 'calm under pressure' and 'optimistic'. He praised the support that he was receiving from his manager [44-8].

9. Stress and his struggles with over-work remained a theme in the 1-2-1 meeting notes into the rest of 2024; in April [49-50], July [51-2], in which it was noteworthy that the Claimant said that he did not then need any additional support, and August [53-4]. There did seem to have been some respite in September [55-7] and October [58-9] with the arrival of a new staff member, but he was recorded as having been 'struggling' again in December [60-2].

10. Whilst there were many references to the *amount* of work and associated pressure that it and staff turnover was causing within those 1-2-1 notes, there were no significant references to any detrimental *impacts* or effects upon him. In evidence, he said that a lot of his peers appeared to have been in the same boat and he 'just kept going'. There were also references to the sources of support which the Claimant had not felt that he had needed (e.g. [56]).

11. The Claimant alleged that his symptoms throughout the period were of poor sleep (typically, three or four hours per night), exhaustion, an inability to concentrate, poor memory, headaches, neck pain, irritability, reluctance to engage in normal hobbies and activities and social withdrawal (paragraphs 4 and 13 to 18). In the summer of 2024, he said that he broke down in front of his line manager during a video call (paragraph 5). He nevertheless continued to work and had no time off. His statement also reflected the 1-2-1 notes in that he experienced a slightly better period in the autumn when more support was provided.

12. Matters came to a head in December. He saw a private GP and was signed off work over Christmas due to 'work related stress' (24 December to 7 January [63]). Despite a short break, he saw his NHS GP on 16 January 2025 and he felt that there had been no improvement. In fact, he felt worse (paragraph 8). He was signed off until 16 February with 'burn out' [65], a phrase that was repeatedly used thereafter.

13. In evidence, the Claimant said that his breakdown in December was 'complete'. He said that he was 'sobbing on the floor and everything'.

14. It was important to note that the Claimant's identification of the 'meltdown' having occurred just before Christmas coincided with the time that he was first signed off work. This event was subsequently and repeatedly referred to as the tipping point (see below).

15. By March, his symptoms were continuing at a similar level. During a welfare meeting on 11 March, his description of his symptoms correlated with those in his witness statement [73-4]. He again referred to his 'meltdown prior to Christmas'. He was prescribed Sertraline from 13 March and undertook an online therapy course (paragraphs 9 and 10). He was signed off again until 10 April [72].

16. On 13 March, he also issued a grievance in which he claimed that he had suffered an "*emotional collapse*" in December [77-8]. He then asked for an extension to his sick pay for a 3 month period beyond April 2025 when it was due to have run out or until he was deemed fit to return. In evidence, he accepted that he had hoped for a recovery and a return to work in that period.

17. The Claimant was seen by Occupational Health ('OH') on 30 April 2025 [89-91]. The report confirmed that he remained unfit for work and could not have returned until his concerns about work had been addressed by management. As such, mediation was recommended. As to the impact of the Equality Act, the report referred to the Claimant's situation as having been in a 'grey area' and therefore recommended that an assumption be made that the Act applied.

18. Because the Claimant had not materially improved, he resigned on 20 May 2025 [100-1]. Again, in that letter, he referred to his 'breaking' having occurred in December 2024.

19. After his resignation, his personal care declined, he lost his appetite, he became more socially withdrawn (paragraphs 19 to 22). In terms of substantiality and duration, the Claimant said this in paragraph 25 of his witness statement;

> "*In my view, the effects on my normal day-to-day activities had become substantial by approximately June or July 2024, when I broke down in front of my line manager. They continued to worsen and were plainly severe by December 2024, when my family intervened and I was signed off work.*"

20. In cross-examination, his evidence about the effects of his stress at that time was tested. He was asked about the contents of the 1-2-1s, his ability

to have continued working and the absence of medication or medical help of any sort. It was suggested that his condition could not have been substantial at the time. The Claimant asserted that, despite his continued functioning at work, the effects were being experienced at home; he said that he was 'putting everything into work so that nothing was left for home'. That was difficult evidence to accept on the basis of the surrounding, objective material, particularly the contents of the 1-2-1s which, in my judgment, reflected a man who had been working hard, had been complaining of over work, perhaps with good reason, but who showed little in the way of ill effects or loss of function or ability.

21. The only medical evidence produced by the Claimant (Dr Hodkinson's letter of 28 April 2026 [102-3]) also reflected the balance of the other evidence; that the tipping point had been at Christmas. The letter stated that the Claimant had been "*first diagnosed with work-related stress and burnout on 16 January 2025*" that was reported as having been "*developing for the previous 12 months*". Thereafter, "*as* [emphasis added] *his condition progressed, he developed symptoms consistent with a depressive disorder, for which he was commenced on treatment on 13 March 2025*" [102-3]. The 'trigger' for his symptoms was said to have been "*a period of prolonged work-related stress and long working hours (26.01.25)*". Even by the date of the letter, it was recognised that the Claimant's symptoms were continuing "*to have a significant functional impact..*", albeit that the Claimant accepted in evidence that he had not been back to the GP between March 2025 and March 2026.

22. The Claimant believed that he continued to suffer symptoms of a substantial nature even now (paragraph 30).

Relevant legal principles

23. A person had a disability if they had a physical or mental impairment which had a substantial and long-term adverse effect on their ability to carry out normal day to day activities (s. 6 of the Equality Act). The questions may have overlapped to a certain degree. However, the Tribunal had to ensure that each step was considered separately and sequentially (*J v DLA Piper* [2010] ICR 1052, and *Goodwin v Patent Office* [1999] ICR 302). The burden was on the Claimant to prove the four conditions (*Kapadia v London Borough of Lambeth* [2000] IRLR 699 (CA)).

24. Schedule 1 of the Act contained further guidance in relation to the definition. In addition, I took into account the '*Guidance on the Definition of Disability*' which I was required to where relevant under Schedule 1, Part 1, paragraph 12.

25. In *Goodwin-v-Patent Office* [1999] IRLR 4, the EAT gave detailed guidance as to the approach which ought to have been taken in determining the issue of disability. A purposive approach to the legislation was required and a tribunal had to remember that, just because a person could undertake day-to-day activities with difficulty, that did not mean that there was no substantial impairment. The focus ought to have been on what the Claimant could not have done or could only have done with difficulty. The effect of medication ought to have been ignored for the purposes of the assessment.

26. The approach in *Goodwin* was approved in *J-v-DLA Piper UK LLP* [2010] ICR 1052, at paragraph 40. It was said at paragraph 38,

> "*There are indeed sometimes cases where identifying the nature of the impairment from which a Claimant may be suffering involves difficult medical questions; and we agree that in many or most such cases it will be easier – and is entirely legitimate – for the tribunal to park that issue and to ask first whether the Claimant's ability to carry out normal day-to-day activities has been adversely affected – one might indeed say "impaired" – on a long-term basis. If it finds that it has been, it will in many or most cases follow as a matter of common-sense inference that the Claimant is suffering from a condition which has produced that adverse effect — in other words, an "impairment". If that inference can be drawn, it will be unnecessary for the tribunal to try to resolve difficult medical issues of the kind to which we have referred."*

27. Whether someone had an impairment was a question of fact and the word was to have been given its ordinary meaning. Its cause was likely to have been irrelevant.

> "*Impairment for this purpose and in this context, has in our judgment to mean some damage, defect, disorder or disease compared with a person having a full set of physical and mental equipment in normal condition. The phrase 'physical or mental impairment' refers to a person having (in everyday language) something wrong with them physically, or something wrong with them mentally.*" (*Rugamer-v-Sony Music Entertainment UK Ltd* [2001] IRLR 664).

28. The activities affected must have been "*normal*". *The Guidance* stated:

> *"In general, day-to-day activities are things 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."* (Paragraph D3)

29. Normal day-to-day activities included those which were normal for the particular claimant as long as they were not specialised activities, as defined in paragraphs D8 and 9 of the *Guidance.* The correct approach involved a consideration of all matters, but particular attention had to be paid to those activities that the claimant could not do or could only do with difficulty (*Leonard-v-Southern Derbyshire Chamber of Commerce* [2000] All ER (D) 1327).

30. The statutory definition of "*substantial*" was "*more than minor or trivial*" under s. 212 (1). Section B1 of the Equality Act Guidance stated "*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*".

31. Factors that illustrated "*substantial effect*" under Section B of the Guidelines included the time taken to carry out an activity, the way in which an activity was carried out and the effects of environment. The *Guidelines*, however, ought only to have been considered if the answer could not have been

found from a simple application of the statute (*Elliott-v-Dorset County Council* UKEAT/0197/20).

32. An impairment was to have been treated as having had a substantial adverse effect on a person's ability to carry out normal day-to-day activities if: (i) measures were being taken to treat it or correct it; and (ii) but for the measures, the impairment would have been likely to have had that effect. The effect of an adjustment, for example ought to have been ignored (*Elliott* above).

33. It was clear from paragraph 2 of Schedule 1 of the Act that an impairment was long term if it had lasted for 12 months or more, or was likely to have lasted that long or for the rest of the life of the Claimant. All three possibilities had to be considered (*McKechnie Plastic Components-v-Grant* UKEAT/0284/08). As to the question of likelihood, the Tribunal had to determine whether it 'could well have happened' (*Guidance*, paragraph C3 and *SCA Packaging Ltd-v-Boyle* [2009] IRLR 746).

34. In *Tesco Stores Ltd-v-Tennant* [2020] IRLR 363, the EAT confirmed that a disability must have had the necessary long-term effect at the time that the alleged acts of discrimination were committed. Therefore, if the substantial adverse effect had not lasted at least 12 months at the time of the alleged discriminatory act (or, if there is more than one act, at the time of each act), the Claimant will not have met the definition of disability unless they could instead have shown that, at the time of the alleged discriminatory act (or acts), their condition was likely to have lasted 12 months or for the rest of their life.

35. The Tribunal's determination of the "*long-term*" condition must have been based only on what was known when the alleged discrimination took place, not with the benefit of hindsight - *Richmond Adult Community College-v-McDougall* [2008] EWCA Civ 4 per Pill LJ at [24]:

> "*The decision, which may later form the basis for a complaint to an Employment Tribunal for unlawful discrimination, is inevitably taken on the basis of the evidence available at that time. In my judgment, it is on the basis of evidence as to circumstances prevailing at the time of that decision that the Employment Tribunal should make its judgment as to whether unlawful discrimination by the employer has been established. The central purpose of the Act is to prevent discriminatory decisions and to provide sanctions if such decisions are made. Whether an employer has committed such a wrong must, in my judgment, be judged on the basis of the evidence available at the time of the decision complained of. In reaching that conclusion, I have had regard to the Guidance. I agree with the conclusion of Lindsay J and Elias J and with their analysis of the Guidance*".

36. The decision in *McDougall* had more recently been ratified in *All Answers Ltd-v-W and another* [2021] EWCA Civ 606.

37. In cases involving mental impairments, the use of terms such as 'anxiety', 'stress' or 'depression', even by GPs, would not necessarily amount to proof of an impairment, even if such terms, or similar, had been referred to as part of one of the World Health Organisation International Classification of

Diseases (*Morgan-v-Staffordshire University* [2002] IRLR 190 and *J-v-DLA Piper UK LLP* [2010] IRLR 936). The EAT said, at paragraph 42 and 43 of *J-v-DLA Piper*:

> *"42. The first point concerns the legitimacy in principle of the kind of distinction made by the tribunal, as summarised at para 33 (3) above, between two states of affairs which can produce broadly similar symptoms: those symptoms can be described in various ways, but we will be sufficiently understood if we refer to them as symptoms of low mood and anxiety. The first state of affairs is a mental illness—or, if you prefer, a mental condition—which is conveniently referred to as "clinical depression" and is unquestionably an impairment within the meaning of the Act. The second is not characterised as a mental condition at all but simply as a reaction to adverse circumstances (such as problems at work) or—if the jargon may be forgiven—"adverse life events". We dare say that the value or validity of that distinction could be questioned at the level of deep theory; and even if it is accepted in principle the borderline between the two states of affairs is bound often to be very blurred in practice. But we are equally clear that it reflects a distinction which is routinely made by clinicians—it is implicit or explicit in the evidence of each of Dr Brener, Dr MacLeod and Dr Gill in this case—and which should in principle be recognised for the purposes of the Act. We accept that it may be a difficult distinction to apply in a particular case; and the difficulty can be exacerbated by the looseness with which some medical professionals, and most lay people, use such terms as "depression" ("clinical" or otherwise), "anxiety" and "stress". Fortunately, however, we would not expect those difficulties often to cause a real problem in the context of a claim under the Act. This is because of the long-term effect requirement. If, as we recommend at para 40 (2) above, a tribunal starts by considering the adverse effect issue and finds that the Claimant's ability to carry out normal day-to-day activities has been substantially impaired by symptoms characteristic of depression for 12 months or more, it would in most cases be likely to conclude that he or she was indeed suffering "clinical depression" rather than simply a reaction to adverse circumstances: it is a common sense observation that such reactions are not normally long-lived.*
>
> *43. We should make it clear that the distinction discussed in the preceding paragraph does not involve the restoration of the requirement previously imposed by paragraph 1(1) of Schedule 1 that the Claimant prove that he or she is suffering from a "clinically well recognised illness";…"*

38. The EAT in *Morgan* underlined the need for a claimant to prove his or her case on disability; tribunals were not expected to have had anything more than a layman's rudimentary familiarity with mental impairments or psychiatric classifications. The use of labels such as 'anxiety', 'stress' or 'depression' would not normally have sufficed unless there was credible and informed evidence that, in the particular circumstances, so loose a description nevertheless identified an illness or condition which caused the substantial impairment required under the statute. The EAT recognised that there were significant dangers of a tribunal forming a view on the presence of a mental impairment solely from the manner in which a claimant gave evidence on the day of the hearing.

39. Paragraph 55 of the decision in *Royal Bank of Scotland plc-v-Morris* UKEAT/0436/10 was also relevant:

> "*The burden of proving disability lies on the Claimant. There is no rule of law that that burden can only be discharged by adducing first-hand expert evidence, but difficult questions frequently arise in relation to mental impairment, and in Morgan-v-Staffordshire University [2002] ICR 475 this Tribunal, Lindsay P presiding, observed that "the existence or not of a mental impairment is very much a matter for qualified and informed medical opinion" (see para. 20 (5), at p. 485 A-B); and it was held in that case that reference to the applicant's GP notes was insufficient to establish that she was suffering from a disabling depression (see in particular paras. 18-20, at pp. 482-4). (We should acknowledge that at the time that Morgan was decided paragraph 1 of Schedule 1 contained a provision relevant to mental impairment which has since been repealed; but it does not seem to us that Lindsay P's observations were specifically related to that point.)*"

40. Nevertheless, it was not always possible or necessary to label a condition, or collection of conditions. The statutory language always had to be borne in mind; if the condition caused an impairment which was more than minor or trivial, however it had been labelled, that would ordinarily suffice. Appendix 1 to the EHRC Code of Practice of Employment stated that there was no need for a person to establish a medically diagnosed cause for their impairment. What was important to consider was the effect of the impairment and not the cause.

41. In the case of mental impairments, however, the value of informed medical evidence was not to have been underestimated (see *Ministry of Defence-v-Hay* [2008] ICR 1247). Nevertheless, where there was no evidence that demonstrated that an employee was suffering from a disability at the time the alleged act of discrimination occurred, a tribunal was entitled to consider evidence of disability more generally and to infer from that evidence that the disability existed at the relevant time (*All Answers Ltd-v-Wain and another* UKEAT/00232/20/AT).

42. In cases where an employee blamed their work situation for the cause of their stress, the case of *Herry-v-Dudley Metropolitan Council and Governing Body of Hillcrest School* [2017] ICR 610, was of assistance in which the EAT expanded on the distinction drawn in *J-v-DLA Piper* and made the following observations:

    (a) There was a class of case where the individual would not give way or compromise over an issue at work, and refused to return to work, yet in other respects suffered no or little apparent adverse effect on normal day-to-day activities;

    (b) A doctor may have been more likely to have referred to the presentation of such an entrenched position as "*stress*" than as anxiety or depression;

    (c) An employment tribunal was not bound to find that there was a mental impairment for the purposes of disability in such a case. Unhappiness with a decision or a colleague, a tendency to nurse grievances, or a refusal to compromise, were not of themselves mental impairments: they may simply have reflected a person's character or personality;

    (d) Any medical evidence put before the tribunal that supported a diagnosis of a mental impairment must have been considered with

great care, as must any evidence of adverse effect over and above an unwillingness to have returned to work until an issue was resolved to the employee's satisfaction; but in the end the question of whether there was a mental impairment was one for the employment tribunal to assess.

Discussion and conclusions

43. The Respondent's arguments, in a nutshell, were that the Claimant did not suffer any notable impairment until 24 December 2024 at the latest (paragraph 22 of Mr Wright's Skeleton Argument). By the date of his resignation, his condition had not lasted for 12 months and there was no evidence of a likelihood that that would have been the case in May 2025. In broad terms, I accepted those arguments.

44. Before December, whilst the Claimant had undoubtedly been working hard, the evidence that it had caused a condition which had affected his normal day-to-day activities in a substantial manner was not compelling. Whilst work pressures and stress continued to be recorded in his 1-2-1s, he remained at work, did not attend his GP and received no medication or treatment. Indeed, he seemed to shrug off some offers of additional support over that period.

45. Evidence of an adverse impact of a substantial nature was only to have been found within the Claimant's impact statement during that period (the main part of 2024), but that had to have been read in the context of the 1-2-1s, the GP's evidence and his own repeated references to the breaking point having been before Christmas. His GP only then diagnosed a 'depressive disorder' which developed *after* his first attendance.

46. Whether burnout, depression, a 'meltdown', an 'emotional collapse', stress or anxiety, I was satisfied that the Claimant had suffered an impairment which was at the requisite level of substantiality by December 2024. The label was not as important as the evidence of effects, despite the relative paucity of helpful, focused medical evidence.

47. He resigned in May 2025, only five months after his condition developed to the necessary level. Could he say, at that point, that it was likely that it would have continued at that level for at least a further seven months? That was the key question.

48. There was no evidence which assisted him at or around the point of his resignation. The OH report did not. It suggested that the problems then were management related and/or dependent upon the resolution of the concerns that he then had about aspects of his work. The GP's letter did not. It was written a long time later and appeared to comment upon an attendance/attendances which were otherwise un-evidenced in the bundle.

49. Ordinarily, one might have expected an alleviation of symptoms once the main stressor, his work, had been removed. Whilst I accept that that was not the case here in light of the subsequent evidence, my assessment of likelihood had to have been undertaken at the relevant date and not with after acquired knowledge of what had actually happened subsequently.

50. Accordingly, whilst I was entirely satisfied that the Claimant suffered a significant and debilitating breakdown or 'burnout' as a result of the pressures of his work in December 2024, I did not accept that it was likely that his symptoms would have continued at the requisite level of substantiality for 12 months or more (or 7 months from May) on the basis of the evidence presented to me. Accordingly, the Claimant was not disabled within the period leading up to his resignation in May 2025 and his claim under s. 20 was dismissed.

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Employment Judge Livesey

Date: 21 August 2026

JUDGMENT SENT TO THE PARTIES ON
4 September 2026