Case Number: 6016826/2025

EMPLOYMENT TRIBUNALS

Claimant: **Mx Aileen O'Reilly**

Respondent: **XBP Europe Limited**

Heard at: **East London Hearing Centre (sitting at Taylor House)**

On: **3 September 2026**

Before: **Employment Judge Gardiner**

Representation
Claimant: Mr Joseph Redmond, Claimant's partner
Respondent: Mr Chevan Ilangaratne, Counsel

JUDGMENT

The judgment of the Tribunal is that:-

The Claimant was a disabled person throughout their employment with the Respondent.

REASONS

1. The Tribunal must decide whether the Claimant was a disabled person during the course of their employment with the Respondent from 2 September 2024 to 5 March 2025.

2. Section 6(1) of the Equality Act 2010 is worded as follows:

> A person (P) has a disability if-
>
> (a) P has a physical or mental impairment, and
> (b) The impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities.

3. The Respondent accepts that the Claimant has a nut allergy and that this amounts to a physical impairment. The Respondent also accepts that this impairment is a long-term impairment in that the Claimant had suffered from the impairment for several years by the time she started work for the Respondent. The dispute is whether the impairment had a substantial adverse effect on P'S ability to carry out normal day to day activities.

4. Under Section 6(5) Equality Act 2010, statutory guidance has been issued about the matters to be taken into account in deciding whether this statutory definition is satisfied. That guidance was issued in 2011. So far as is relevant to the disputed issue, the guidance provides as follows:

    a. 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 minor or trivial (B1).

    b. Account should be taken of how far a person can reasonably be expected to modify his or her behaviour, for example by use of a coping or avoidance strategy, to prevent or reduce the effects of an impairment on normal day to day activities (B7).

    c. For example, a person who needs to avoid certain substances because of allergies may find the day to day activity of eating substantially affected. Account should be taken of the degree to which a person can reasonably be expected to behave in such a way that the impairment ceases to have a substantial adverse effect on his or her ability to carry out normal day to day activities (B7). In some cases, people have coping or avoidance strategies which cease to work in certain circumstances. If it is possible that a person's ability to manage the effects of an impairment will break down so that effects will sometimes still occur, this possibility must be taken into account when assessing the effects of the impairment (B10).

    d. The Tribunal should disregard treatment or correction measures when considering substantial adverse effect. Medical treatments include the need to follow a particular diet (B12).

5. The evidence on this preliminary issue has come from the Claimant themselves, in a disability impact statement, as well as from the Claimant's medical notes. The Claimant has been cross examined about the contents of their evidence. The Respondent relies on the evidence of Nicola Homewood who was also cross examined on the contents of her witness evidence.

6. My findings of fact as to the extent of the Claimant's nut allergy are as follows:

a. In June 2003, the Claimant experienced an anaphylactic shock when eating pecan pie. She needed to be hospitalised. It was at that point that it was confirmed that she had a nut allergy.

b. On 20 August 2011, the Claimant ate a nut and went into a further anaphylactic shock. She was hospitalized.

c. On 14 May 2019, the Claimant was on holiday in the Canary Islands when she suffered a reaction to food she had eaten in a restaurant. Although she had attempted to alert the restaurant to her nut allergy, the food she was given included walnuts. Given her serious symptoms she went immediately to the local private hospital, who administered treatment. This was a further occasion on which she required hospital treatment. I accept the Claimant's evidence that there have been six such occasions in total.

d. On that trip to the Canary Islands, the Claimant was given priority boarding on to the flight, given her nut allergy. She was permitted to sanitise her seat, and an announcement was made to all passengers that they were not to eat nuts during the flight. The Claimant has not flown since.

e. In July 2023, she was issued with a second EpiPen by her GP, as she only had one available to her. The GP recorded she had a "severe nut allergy". This was so that she could be given an injection if she appeared to be at risk or was going into anaphylactic shock as a result of contact with nuts.

f. Because of the risk of serious symptoms if in contact with nut participles, the Claimant chooses not to use public transport to travel to work; and rarely uses public transport at all. Instead, the Claimant would drive to work to avoid any contact with nuts. I accept that the Claimant will not shake hands with people or hug family or friends because of the risk that they have come into contact with nuts.

g. The Claimant informed the Respondent about her nut allergy during her interview. She told the Respondent that her health was at risk not just from ingesting nuts, but from coming into contact with nut particles.

h. On 10 January 2025, the Claimant consulted her GP, reporting frequent nosebleeds over the past month in the following terms:

> "I've been having nose bleeds multiple times a week, sometimes more than once in a day, and they range from light to very heavy. Some have lasted over 30 minutes."

i. I accept that this entry accurately records the frequency and the extent of the symptoms that the Claimant had been experiencing. The cause of these nosebleeds was further investigated after their employment ended. In a medical entry on 28 April 2025, they were diagnosed with suspected allergic rhinitis/epistaxis secondary to allergic inflammation. The allergy being referred to was her allergy to nuts. In order to decide the disability status issue, I do not need to make any findings as to the particular circumstances

in which the Claimant may have come into contact with nuts whilst at work. However, the airborne contact with nut participles that she did experience was, on the balance of probabilities on the available evidence, causing her to suffer these nosebleeds. This is what was recorded in the letter from her GP on 28 April 2025:

"Her condition may be exacerbated by environmental or occupational exposure to nut allergens, which poses a significant health risk."

7. The Respondent relies on several matters which it argues indicates that the true impact of the Claimant's nut allergy on normal day to day activities is far less severe that the Claimant suggests. Essentially, the Respondent's argument is that they are exaggerating the extent of their symptoms for the purposes of financial gain by pursuing these proceedings. I deal with each of them in turn:

   a. The Claimant's previous retail roles at White Stuff, KFC and Café Pizzaria. Whilst the Claimant was able to perform these roles, I accept the Claimant's evidence that adjustments were made by each of those employers that minimised her risk of coming into contact with nut particles. Therefore, her ability to perform those roles is not incompatible with her nut allergy crossing the threshold of "substantial adverse effect" to amount to a disability.

   b. The extent to which the Claimant failed to take appropriate precautions when she was at work with the Respondent. The examples given by Ms Homewood include permitting colleagues to eat food near her, failing to sanitise her work station, and failing to have her EpiPens with her at all times. Without making specific factual findings as to each of these alleged inconsistencies, I accept that, on occasions, the Claimant was not as fastidious as on other occasions about the extent of the precautions that they should take to minimise the risk of nut particles impacting on their health. This is indicative of a desire at time not to live too restricted a daily life in response to their genuine allergy and not to unnecessarily inconvenience others. At the final hearing, the extent of the inconsistencies as to the Claimant's willingness to risk contact with nut allergens may impact on what steps it was reasonable for the Respondent to take. However, I do not find that this, by itself, is indicative of a tendency to exaggerate the true extent of the symptoms.

   c. The lack of reference in the GP entry on 10 January 2025 to the Claimant's nut allergy as the probable cause of their nosebleeds. I am not persuaded that the omission to record this in the notes indicates that the Claimant never attributed the nose bleeds to their nut allergy. It is perhaps unsurprising that the Claimant's hypothesis was not recorded if the Claimant was asking for a medical explanation and solution.

d. The apparent continuation of the Claimant's nosebleeds even after their employment with the Respondent ended. If the cause of the nosebleeds was allergic rhinitis/epistaxis secondary to allergic inflammation, the inflammation will not necessarily have subsided immediately after any exposure has ceased. Furthermore, even though employment has ended, it does not follow that the Claimant did not experience any exposure to nut allergens after the end of her employment from other sources. Such exposure may well be a partial explanation for ongoing nosebleeds.

e. The lack of specialist evidence from an ENT consultant or equivalent specialist to support the Claimant's case as to the extent of their symptoms. However, the Claimant has disclosed their medical records which do support that they have a severe nut allergy. The Claimant was in the process of being referred to an ENT consultant at the time of the hearing and an appointment had been fixed for 6 September 2026.

Conclusion

8. In the light of these factual findings, my conclusion is that the Claimant was disabled throughout their employment with the Respondent. The extent of their symptoms was such as to cause a substantial adverse effect on normal day to day activities. It impacted on how they travelled to work; the areas in the Respondent's offices in which they were able to go; and the people with whom they were able to associate. Not only did the nut allergy impact on what the Claimant could eat, it also triggered regular nosebleeds, particularly from December 2024 onwards. The consequence of experiencing these nosebleeds in the office, particularly if they lasted for 30 minutes would have significantly disrupted the Claimant's ability to get their tasks completed. This together with the avoidance measures that the Claimant was taking to avoid any contact with nut particles had a substantial effect on normal day to day activities.

9. It will be for the Panel conducting the Final Hearing to decide on whether there were further reasonable adjustments that the Respondent could and should have made given the extent of the Claimant's symptoms and their impact on normal day to day activities. The Panel will also need to decide whether the Respondent's treatment of the Claimant amounted to harassment related to their disability, and whether her resignation was a constructive dismissal and amounted to discrimination arising from disability.

Approved by:
Employment Judge Gardiner
Dated: 19 October 2026