



EMPLOYMENT TRIBUNALS

Claimant: Mr D Rowe

Respondent: David Wood Baking Limited

Heard: by video **On:** 1, 2 & 3 June 2021

Before: Employment Judge S Jenkins
Ms S Atkinson
Mrs H Hinkin

Representation

Claimant: Ms L Rowe

Respondent: Mr A Willoughby (Counsel)

JUDGMENT

1. The Claimant was, at the relevant times, disabled for the purposes of section 6 of the Equality Act 2010 ("EqA").
2. The Claimant was not directly discriminated against on the ground of his disability, and his claim of direct disability discrimination, pursuant to section 13 EqA, therefore fails.
3. The Respondent failed to take such steps as it was reasonable for it to have to take to avoid the substantial disadvantage caused to the Claimant by its provisions, criteria or practices. The Claimant's claim of failure to comply with the duty to make reasonable adjustments, pursuant to section 21 EqA, therefore succeeds.
4. The Claimant was unfairly dismissed, and his claim of unfair dismissal, pursuant to section 94 of the Employment Rights Act 1996, therefore succeeds.
5. The amount of compensation to be awarded in respect of the Claimant's successful claims remains to be assessed, and a separate hearing will take place unless the parties can reach agreement between themselves. Any compensation in respect of the Claimant's financial losses will however be subject to a deduction of 50% to reflect the principle in Polkey v A E Dayton Services Limited [1987] UKHL 8, on the basis that There was a 50% chance that the Claimant would have subsequently been fairly dismissed in any event. For the avoidance of doubt, that deduction shall not apply to any basic award of compensation for unfair dismissal or to any injury to feelings award.

Employment Judge S Jenkins

Date: 3 June 2021

JUDGMENT SENT TO THE PARTIES ON 9 June 2021

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FOR THE TRIBUNAL OFFICE Mr N Roche

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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