



EMPLOYMENT TRIBUNALS

Claimant: Mr A Bawa

Respondent: Trident Reach the People Charity

Heard at: Midlands West Tribunal **On:** 11.05.2023

Before: Judge L Mensah remotely

Representation

Claimant: In person (supported by his son Mr I Bawa, and religious leader Mr R Abba)

Respondent: Mr B Patel (Head of Human Resources)

JUDGMENT

1. I heard evidence from the Claimant and oral submissions from both parties. I had a 316 electronic page bundle. The claims are brought under the Equality Act on the grounds of disability discrimination and constructive dismissal. The hearing took a full day. I gave oral judgment at the end.
2. The previous Case Management order dated 09.01.2023 has already set out the List of Issues. I have varied some of the dates for timetabling for the substantive hearing and they are detailed in a separate order of today's date and have been discussed with the parties at the hearing.
3. The previous Tribunal thought it was possible to decide as to whether the Claimant is disabled within the meaning of the Equality Act 2010 and whether his claims, or some of them should be struck out as being out of time. For the reasons given below I did decide if he is disabled, but not if his claims are out of time, a continuing course of conduct and whether it is just and equitable to extend time. This will have to be decided at the substantive hearing after hearing all the evidence.

The Tribunal orders;

1. The Claimant is disabled within the meaning of Section 6 of the Equality Act 2010 by virtue of the impact of three conditions as physical impairments. They are Type 2 Diabetes, Ischemic Heart Disease and Gout. I accept together they amount to a physical impairment which had a substantial

- adverse long-term effect on his ability to undertake normal day to day activities.
2. I also find the Claimant's impairment covered the relevant period of his employment with the Respondent as all three conditions met the legal thresholds from the commencement of his employment to its end on the 28.02.2022. I found the Gout a recurring condition since 16.01.2006, the ischemic heart disease a lifelong and progressive condition (with the Claimant having a heart attack in January 2023), and the Type 2 Diabetes had lasted longer than 12 months and in fact had persisted since first diagnosed on the 08.07.2008. All three were being managed with medication and self-managed strategies.
 3. I made no findings in relation to the extent of the Respondent's knowledge of any of these conditions. The Respondent accepts the Claimant has all three conditions.
 4. After a full day and based on the limited evidence, I was not able to fairly decide if the events amounted to a continued course of conduct/ continued act, or where individual unrelated events that were out of time or should be struck out for being out of time. I concluded the panel would have to decide on time after hearing all of the evidence.
 5. I therefore, could not fairly differentiate between matters relied upon for the purposes of the first ACAS certificate and those relied upon for the second ACAS certificate because I could not decide if the events were part of a continuing act or unrelated. This is a decision the panel is going to after make after hearing all the evidence. I am mindful of what was said in H M Revenue & Customs v Garau (Practice and Procedure: Application/Claim) [2017] UKEAT 0348_16_2403 (24 March 2017) that a second ACAS certificate does not extend time.
 6. I made it clear to the parties, nothing I have said or done in relation to my judgment or reasoning is intended to bind the Tribunal hearing the substantive issues beyond the fact the Claimant is disabled at the relevant time.

Employment Judge **Mensah**
11.05.2023

Notes¹

¹ 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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