



EMPLOYMENT TRIBUNALS

Claimant: Ms Tallena Prazak

Respondent: Age UK Wandsworth

On: 7-8 April 2021 and 9 April 2021 in chambers

Before: Employment Judge Martin
Ms P Barrett
Ms C Bonner

Claimant: In person

Respondent: Ms G Nicholls - Counsel

RESERVED JUDGMENT

The unanimous judgment of the Tribunal is that the Claimant's claims are not well founded and are dismissed.

RESERVED REASONS

1. The Claimant presented a claim to the Tribunal on 21 June 2019. She made claims of disability discrimination and unfair dismissal. The Respondent in its grounds of resistance and response presented on 13th September 2019 resisted the Claimant's claims.
2. At a preliminary hearing on 20 December 2019 the final hearing was listed for three days commencing on 22 July 2020. However due to the pandemic this hearing did not take place. At the preliminary hearing the following issues were identified and agreed by both parties.

Time limits / limitation Issues

Was the Claimant's complaint presented within the time limits set out in sections 123(1)(a) & (b) of the Equality Act 2010 ("EQA")? Dealing with this issue may involve consideration of subsidiary issues including whether there was an act and/or conduct extending over a period, and/or a series of similar acts or failures; whether time should be extended on a "just and equitable" basis; when the treatment complained about occurred.

Unfair dismissal

What Was the reason for dismissal? The Respondent asserts that it was a reason related to capability, which is a potentially fair reason for dismissal under s. 98 (2) of the Employment Rights Act 1996.

The Claimant's challenges to the fairness of the dismissal are identified as follows:

- a. That in time she would have been able to return to full duties.
- b. Other options were not fully considered. e.g. use of a lighter drill.
- c. Failure to follow the capability process and not providing sufficient warnings.
- d. The phased return to work was not done properly.

Was the decision to dismiss a fair sanction. that is, was it within the range of reasonable responses open to a reasonable employer when faced with these facts?

Did the Respondent adopt a fair procedure?

If it did not use a fair procedure, would the Claimant have been fairly dismissed in any event and/or to what extent and when?

Disability

Was the Claimant a disabled person in accordance with s.6 of the Equality Act 2010 ("EQA") at all relevant times because of costochondritis (a swelling of the chest Wall and second rib inflammation around it or the joint)?

If so, did the Impairment have a substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities?

If so, was that effect long term? In particular, when did it start and: has it lasted for at least 12 months; or was the impairment likely to have lasted at least 12 months or the rest of the Claimant's life, if less than 12 months?

Were any measures taken to treat or correct the impairment? But for those measures would the impairment have been likely to have had a substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities.

EQA, complaint

The Claimant says the Respondent has subjected her to dismissal contrary to s. 39(2)(c) of the EQA.

Prohibited conduct ~ reasonable adjustments sections 20 and 21 EQA

Did the Respondent apply the following provision. criteria and/or practice (PCP) generally: requiring the Claimant to carry out drilling for approximately 50% of her role?

Did the application of any such PCP put the Claimant at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled in that: the drilling exacerbated her pain?

Did the Respondent take such steps as were reasonable to avoid the disadvantage? The burden of proof does not lie on the Claimant; however it is helpful to know the adjustments asserted as reasonably required and they are identified as removing drilling from her role. The Claimant was put on light duties and drilling was removed from her job description in May/June 2018 in accordance with her GP's recommendation, however the expectation that the Claimant would carry out drilling tasks crept back in and the Claimant felt under an expectation to do so.

Did the Respondent know, or could the Respondent not be reasonably expected to know that the Claimant had a disability or was likely to be placed at the disadvantage set out above?

The law as relevant to the issues

Disability

3. S6 Equality Act 2010: "*a person has a disability if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities*".
4. In Goodwin v Patents Office 1999 ICR 302 the EAT gave guidance on the proper approach to adopt when applying the DDA's provisions. This guidance is relevant when deciding matters under the Equality Act 2010. The guidance requires a Tribunal when determining disability to look at the evidence by reference to 4 different questions or conditions.
 - i. Did the Claimant other mental physical impairment?
 - ii. Did the activities affect the Claimant's ability to carry out normal day-to-day activities?
 - iii. was the adverse effect substantial?
 - iv. Was the adverse condition long-term?
5. In Wigginton v Cowrie and others t/a Baxter international (A partnership) the EAT held that these four questions should be dealt with sequentially and not together.
6. In Cruickshank v VAW Motorcast Limited 2002 ICR 729 the EAT held that the time to assess the disability is the date of the alleged discriminatory act. In Richmond adult community college v McDougall 2008 ICR 431 the Court

of Appeal held that the date of the discriminatory act is also the material time when determining whether the impairment has a long-term effect.

7. The burden of proof is on the Claimant to show that he or she has satisfied the definition.
8. Turning to the four elements of the definition:
 - i. An impairment can be physical or mental. There is no requirement for the impairment to have a specific diagnosis.
 - ii. The words "substantial adverse effect" is defined in section 212(1) Equality Act as meaning "more than minor or trivial". Whether a particular impairment has a substantial effect is a matter for the Tribunal to decide. The focus should be on what the Claimant cannot do or can only do with difficulty as set out in Leonard v Southern Derbyshire Chamber of Commerce 2001 IRLR 19 EAT.
 - iii. Appendix 1 of the EHRC Employment Code states that "normal day-to-day activities" are activities that are carried out by most men and women on a fairly regular and frequent basis, and gives examples of walking, driving, typing and forming social relationships. Account should be given of how far the activities are carried out on a normal frequent basis. The guidance emphasises that in this context, "normal" should be given its everyday meaning. In Goodwin v Patent Office, the EAT considered that there was no need to specify what constitutes a day-to-day activity on the basis that, whilst it is difficult to define, it is easily recognised. In this case the ET stressed that the enquiry is focused on normal daily activities, not on particular circumstances.
 - iv. Paragraph 2(1) of schedule 1 of the Equality Act 2010 says that the effect of impairment is "long-term" if it:
 - has lasted for at least 12 months;
 - is likely to last released 12 months; or
 - is likely to last the rest of the life of the person affected.

"Likely" in this context has been defined by the House of Lords in the case of SCA Packaging Ltd v Boyle 2009 ICR 1056 as something that is a real possibility in the sense that it "could well happen" rather than something that is probable or "more likely than not".

Discriminatory dismissal

9. s39(2)c EqA provides that:
 - i. an employer (A) must not discriminate against an employee of A's (B) –
 - a.
 - b.

c. By dismissing B

Reasonable adjustments

10. An employer is required to make reasonable adjustments under ss.20 and 21 Equality Act 2010 where a provision, criterion, or practice (PCP) applied, placed a disabled person at a substantial disadvantage in comparison with non-disabled persons. Failure to do so amounts to unlawful disability discrimination. Tribunals determining whether it would be reasonable for the employer to have to make a particular adjustment in order to comply with the duty must take into account the extent to which taking that step would prevent the disadvantage caused by the PCP (Equality and Human Rights Commission's Code of Practice on Employment).
11. The case of Environment Agency v Rowan [2008] ICR 218 set out guidance on how to approach reasonable adjustment cases. It held that the Claimant must show:
 - i. There was a PCP
 - ii. The PCP put the Claimant at a substantial disadvantage in comparison to persons who did not share his disability
 - iii. The adjustment would avoid that disadvantage
 - iv. The adjustment was reasonable in all the circumstances
 - v. The failure to make the adjustment caused the losses alleged.

Unfair dismissal

12. The Respondent admitted that the Claimant had been dismissed. The Claimant conceded that the dismissal was for reasons relating to her capability, namely her ill health. The Tribunal must therefore decide on the evidence before it whether the dismissal was fair or unfair in accordance with the provisions of section 98(4) Employment Rights Act 1996:

Section 98(4) Employment Rights Act 1996

Where the employer has fulfilled the requirements of subsection (1), [i.e. shown the reason for the dismissal and that it was a potentially fair reason] the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –

(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee and

(b) shall be determined in accordance with equity and the substantial merits of the case.

The hearing

15. The Tribunal had before it an agreed bundle of documents and witness statements for all witnesses. The Tribunal heard from the Claimant, and for the Respondent from Linda Gillians (interim chief executive), Natalie de Silva (Chief Executive Officer) and Jennifer Alexander (Chair of Trustees). Due to restrictions caused by the Covid-19 pandemic, the hearing was held

by CVP.

16. The Respondent provides services to older people. One of its main functions is to install key safes, grab rails and mopsticks so that older people can be discharged from hospital to their home and be safe. It has agreements with the local CCG and the local authority which contain targets in terms of number of jobs done and specific time frames (which are usually between 24 hours and 48 hours) to ensure that the person can be discharged from hospital. The Respondent is an autonomous organisation and is not linked to any other Age UK organisation i.e. there is no umbrella Age UK organisation. Each individual organisation has a separate Charity Commission listing, separate accounts and so forth.
17. The Claimant was employed as a Handyperson by the Respondent and was part of a team of three. Her employment began on 13 May 2015 until her employment was terminated on the 15 February 2019. From the evidence that we had, it is clear that the Claimant was a good employee who was well liked and who maintained a good standard of work.
18. The work which the Claimant undertook involved a substantial amount of drilling. There was some dispute during the evidence about how much drilling was involved with the Respondent saying it was about 80%. The Claimant disputed this figure and said she had never said that this figure was correct. However, having considered the evidence the Tribunal finds on the balance of probabilities that the Claimant did say the drilling work was 80% of her job. She put forward the figure of 80% in her conversation with occupational health which was recorded in its report and also in a letter she wrote to occupational health on 17 October 2018 where she said *"There are a number of points you have not addressed. Firstly the heavy duty drilling that makes up over 80% of my work duties which is brought on the onset of Costochondritis causing me severe pain"*. Whether or not the figure is 80% the Tribunal finds that a substantial proportion of the jobs that the Claimant was employed to do, involved drilling.
19. In January 2018 the Claimant was diagnosed with Costochondritis. This meant that the Claimant was unable to undertake drilling work for the Respondent as this exacerbated her condition. The Claimant believes that the drilling work she did for the Respondent caused this condition however this is not something that the Tribunal needs to determine.
20. The Claimant was on sick leave from 24 January 2018 until 5 February 2018 during which time she received her diagnosis. When she returned to work the Respondent put the Claimant on light duties and her drilling activities were removed. An amended job description was provided as a temporary arrangement. The Claimant's GP provided a fit note on 8 April 2018 saying that the Claimant was fit for work but with light duties and the light duties continued.
21. On 23 May 2018 the Respondent asked the Claimant for her consent to approach her GP for a medical report. Several specific questions were asked which the GP responded to. The GP was unable to say how long her condition might last, stating that most people would find that the episodes

would resolve within six months and that the Claimant had been referred to a rheumatologist. The GP said that for some people it can take a year to recover and there was no way to predict which group the Claimant would be in. The Respondent continued with the amended duties for the Claimant.

22. By 10 September 2018 there was no improvement in the Claimant's condition, and she was still unable to undertake drilling activities for the Respondent. This resulted in the Respondent writing to the Claimant inviting her to a meeting on 14 September 2018 to discuss her continued ill-health. This letter, dated 10 September 2018, set out the issues which were to be discussed namely a time frame for a return to full duties, whether it could be done on a phased basis, whether in the light of medical evidence she was likely to be able to return to full duties and whether there were any alternative employment opportunities that may be available. The Claimant was told that there was a risk that her employment could be terminated because of her ill health was impacting on her ability to do the job for which she was employed. The Claimant was invited to let the Respondent know if there was anything else she wanted to raise in advance. The Claimant was given the opportunity to have a work colleague or trade union representative with her.
23. The meeting took place on 27 September 2018 and the Claimant chose to attend unaccompanied. During the meeting the GP's report was discussed as well as the impact the Claimant being on restricted duties had on the Respondent's organisation. It was explained to the Claimant that the Respondent had targets set by its commissioners for the number of jobs undertaken each month, the number of falls prevention jobs delivered within two weeks of referral, and the number of hospital discharge key safes installed within two working days of referral. The Claimant was told of difficulties when another member of her team was on annual leave, and the third person was on sick leave. As the Claimant was unable to do any drilling, the Respondent had to employ another handyperson for two weeks at extra cost.
24. It was also explained to Claimant that the winter warmth work she had done the previous winter could not continue as they do not have the contract to deliver this anymore. The Claimant was advised that at that time there were no vacancies at the Respondent and therefore no alternative employment that they could discuss with her. It was noted that the Claimant was good on computers and had there been office work available, they would have been happy to offer it to her as alternative employment on a trial basis. However, there were no office work positions available at that time. The Claimant was told during the meeting that there was a risk of possible termination of her employment. Following this meeting the Claimant was referred to occupational health.
25. Occupational health provided a report on 12 October 2018 in which it states that the condition normally lasts a short time but has been known to last for several years. After discussing the Claimant's symptoms, the report states that "*her symptoms have not and are not expected to last over 12 months and that the symptoms would not have a significant impact on normal daily activities without treatment*". No other adjustments were recommended.

26. The Respondent set up a further meeting with the Claimant to discuss whether there was anything that Claimant wanted to comment on about the occupational health report, including things she disagreed with; whether there was any further medical evidence which should be sought; if possible, agreeing a time frame for the Claimant's return to full time work duties; whether the Claimant would be able to return to full work duties; whether there was alternative employment opportunities that might be available and to review the process for her ongoing ill health .
27. All these matters were discussed at a meeting on 8 November 2018. During this meeting it was confirmed that there were no alternative employment opportunities available at that time, but that the Respondent was mindful of alternative opportunities when looking at future funding opportunities. This indicates to the Tribunal that the Respondent wanted to retain the services of the Claimant. During the meeting, a phased work plan was discussed which included shorter days building up to 7 hours a day. The Claimant agreed to start with installing one grab rail or key safe per day to minimise drilling. There was discussion about how long the phased return or phased arrangements should last. The Claimant's mother, who accompanied her to this meeting, said that six months would be reasonable. This was not agreed by the Respondent given that they had amended the Claimant's duties for the previous eight months and they needed her to be back at work on full duties sooner than six months. However, the Respondent did agree to review the Claimant's workload and that there would be a formal review after two weeks.
28. There was a further meeting on 6 December 2018. Up until that time Rachel Corrie who had been the Chief Executive had been conducting the meetings with the Claimant, but by 6 December 2018, she had left the organisation. Ms Gillians, who appointed the interim Chief Executive, took over the process having been briefed by Ms Corrie. On 30 November 2018 the Claimant was given a document extending her contract as handyperson until 31st March 2020 and giving a pay increase.
29. At the review meeting on 6 December 2018 the Claimant told the Respondent that her Consultant had said that she should not do any drilling work for four weeks as the drilling work had exacerbated her condition. The Claimant said that while she did want to return to full duties she wanted to continue light duties until after Christmas. There was discussion about how long the Respondent could continue to offer light duties. Ms Gillians told her that she would have to discuss with others how long they could continue to offer the light duties due to the impact on the service. The Claimant was told at this meeting that the Respondent could not support her indefinitely and that the impact on the service was marked, with the funders asking questions as the organisation was not hitting its targets. The Claimant suggested she could do work for other services such as shopping but was told that whilst the other services could do with more support, there was no funding available. At this stage the Claimant agreed to share the letter she had received from her Consultant, but she later chose not to.
30. On 20 December 2018, a letter was written to the Claimant confirming the

sickness absence meeting that had taken place on 6 December 2018. This confirmed that the Respondent was keeping the Claimant on light duties with no drilling for a further four weeks through to 3 January 2019. The Claimant was invited to a meeting on that day to discuss whether she was then able to return to full duties. Again, the Claimant as in all other meetings was given the right to have a work colleague or trade union representative accompany her.

31. This meeting was delayed until 10 January 2019 because the Claimant had joined a union and wanted to brief her union representative. The Claimant was accompanied by Mr Black her union representative. During that meeting Mr. Black queried the use of the disciplinary and capabilities procedure as it covered disciplinary performance rather than capability in its nature. The Respondent had been using this procedure in the absence of any other sickness or sickness absence procedure within the organisation. Looking at this procedure, the Tribunal of the view that this procedure was not an appropriate procedure as it refers to misconduct matters only and does not cover this type of situation. The Tribunal can understand why the Claimant was upset about the use of this procedure as it implied that she had done something wrong.
32. The Claimant refused to share the letter from her Consultant and was told that if she did not want to share it then the Respondent was unable to take its comments into account and that those comments may help them understand the current situation better. The Claimant was advised that the Respondent could not continue to have her on light duties and needed to know about her current health and when she would be back to full duties. The Claimant told Ms Gillians that the position with her illness was the same, but she was still hopeful she could return to full duties. The Claimant suggested a further phased return, building her work up slowly. The Respondent's position was that it had tried a phased plan previously and that the Claimant had said it had exacerbated her condition and her health was the same.
33. There was disagreement as to what the GP's note said regarding adjustments to work during the phased return. The actual wording used by the GP was that there should be no "*heavy drilling*". The Claimant said that that should have said no drilling. The Respondents said it did not require the Claimant do any heavy drilling in the phased return and even so the Claimant was unable to do this reduced workload. Ms Gillians told the Claimant again that the impact on the Respondent was something it could not continue with and that because the staff team was so small it was having an impact on the service. She reiterated that targets had to be met and that they were currently not always being met which would have an impact on future funding.
34. Having adjourned to consider the matter, Ms Gillians wrote to the Claimant on 17 January 2019 terminating her employment on the grounds of ill-health. In this letter the Claimant's proposal made at the meeting on 10 January 2019 that she could do one drilling job on a Wednesday and one on a Friday was rejected as it would not be sufficient to meet the level of demands that the business was under. Ultimately, because there was no

indication of when the Claimant might be able to return to work soon and the impact on her health in the previous phased work adjustments, the Respondent concluded that it may be some time before the Claimant could return to full duties given that there had been no improvement in her health. The Claimant was given the right of appeal.

35. On 24 January 2019 the Claimant wrote a letter of appeal to Ms Alexander, the Chair of Trustees. The grounds of her appeal were that the injury was industrial i.e. caused at work, the phased return was poorly handled and there have been failures of procedure. In particular that there was not a bespoke policy on sickness and absence. The appeal took place on 14 February 2019 conducted by Ms Alexander and Mr Tuck, a longstanding board member with trade union and civil service expertise. The Claimant was again represented by Mr Black. The Claimants grounds of appeal were considered in some details and were rejected. As it transpired, it took a further year for the Claimant to fully recover.

The Tribunal's conclusions.

36. Having found the factual matrix above and having considered the submissions, the Tribunal comes to the following conclusions on the balance of probabilities.

The Disability Discrimination claim

37. The Claimant had a physical impairment, this is not in dispute. The question was whether the impairment had a substantial adverse impact on her ability to carry out her normal day to day activities. In coming to its decision the Tribunal took account of guidance on matters to be taken into account in determining questions relating to the definition of disability in the Equality Act 2010 guidance.
38. In terms of the Claimant's day to day activities the Claimant had provided an impact statement and there was also reference to day-to-day activities in the various medical reports provided on the Claimants behalf. Whilst the Occupational Health report says that there was no impact on the Claimant's day to day activities, the Tribunal finds that what she describes were impacts on her day-to-day activities. The Tribunal considered whether the impact was substantial, i.e. more than minor or trivial, and concludes that they were. The impacts described in the impact statement included "*Routine tasks which I would normally do with ease, for example when cooking a meal moving the saucepan, was much more strenuous when I had the disability, and caused me chest pain and I would have to take a lot more time and care, and ensure I was lifting it in the correct manner. Everyday tasks such as preparing a meal would take me significantly more time and cause me pain if not done in the correct manner. Even riding a bicycle, which the doctor encouraged me to do was painful and all enjoyment of the experience was taken away.*". "*I would modify my everyday movements, e.g. rather than just grabbing an object, I would get as close to the object as possible and not over- stretch my body, which resulted in me taking longer to do many everyday tasks, and caused me pain*".

39. The Tribunal then went on to consider whether the effect was long term i.e. had lasted for 12 months or was expected to last for more than 12 months. The symptoms and diagnosis started in February 2018. The initial medical advice was that the symptoms should resolve themselves within six weeks to six months. Therefore, when the Respondent made the adjustments to the Claimants role in February 2018 and the months afterwards, it did so at a time when the Claimant was not disabled as defined by the Equality Act 2010.
40. In September 2018, the Respondent started the formal capability process. By this time the Claimant had been off work for approximately 9 months. The Claimant said that there was no change in her condition that although she had had treatment, this had not helped. The Respondent asked for an occupational health report. One of the questions asked of the occupational health provider was whether the Claimant would be considered to be a disabled person and the occupational health report said she would not, both because there was no substantial adverse impact on her normal day to day activities and because the condition had not lasted for 12 months and was not expected to last for 12 months. There is a slight ambiguity within the report in that the occupational health provider did say that this condition could last for over a year. The Tribunal's finding is that the Respondent at this stage had no reasonable grounds for suspecting that the Claimants condition would last for more than 12 months given what the occupational health provider had written.
41. However, by 6 December 2018, the Claimant's condition still had not improved and by then it was very nearly a year from when the Claimant first had symptoms. Given that the medical reports had indicated that the effect could last for more than 12 months and given that it was now 11 months at least since the Claimants symptoms started, the Tribunal find that from this date it was reasonable to conclude that her condition would last for over one year. Therefore, the duty to make reasonable adjustments pursuant to the Equality Act 2010 arose from this point.
42. At the meeting on 6 December 2018, the Claimant said that she could not do any drilling work for a period of four weeks. The Respondent accepted this, and its evidence was that it removed drilling from her duties until her employment ended. The Claimant says that she did some drilling duties in this time, however there was no clear evidence on what she did or whether the Respondent had required her to do it or she did it on her own volition. The Tribunal is satisfied that adjustments were made to remove drilling and to put the Claimant on light duties at that time.
43. The Tribunal then considered whether it would have been reasonable for the Respondent to have kept the Claimant on light duties which involved no drilling for a further period. The Tribunal bore in mind that the Claimant had by then been unable to do her full range of duties particularly drilling for a substantial period and there was little indication of any improvement in her condition. The Respondent had no confidence that she would be able to undertake drilling work within the foreseeable future.
44. The Tribunal accepts the Respondents evidence that it is a small

organisation which is entirely dependent on this receiving funding. It was not disputed that the work done by the team the Claimant worked in comprised a large part of the funding that the Respondent had secured. The Tribunal accepts the evidence that as the Respondent was not hitting its targets and the questions were being asked those who had commissioned the work. The danger was that their contracts would not be renewed which would then affect the viability of the organisation.

The Respondent had a PCP that a handyperson should undertake a substantial amount of drilling. The Tribunal finds that the application of this PCP put the Claimant at a substantial disadvantage in comparison with persons who are not disabled in that the drilling exacerbated her pain?

The Tribunal finds that the Respondent took such steps as were reasonable to avoid the disadvantage in that it amended her duties for a significant period of time by removing the requirement for drilling. The Respondent did this at a time when the Claimant was not disabled as defined by the Equality Act 2010. The Claimant alleges that drilling crept back into her work. The evidence as set out above does not support this. If the Claimant undertook drilling work then this was something she chose to do. There was no evidence that the Respondent required her to do it.

45. In these circumstances the Tribunal finds that the adjustments the Respondent put in place were reasonable and unfortunately did not assist the Claimant to return to full time work.

The termination of the Claimants employment

46. The termination of the Claimants employment involves two issues namely unfair dismissal and direct disability discrimination. Dealing with the direct disability discrimination point first, the Claimant was dismissed because she was unable to undertake a full range of duties she was employed to do in due to her disability. However, the Tribunal finds that the Respondent acted in a proportional way to further its legitimate interests namely having a viable organisation going forward. Its evidence which is accepted is that the organisation was at risk of having funding removed if it did not meet targets and that the Claimant's inability to do the full range of duties was detrimental to the service the Respondent was able to provide. This part of the Claimant's claim is dismissed.
47. In relation to the claim for unfair dismissal, the Tribunal has considered the process adopted by the Tribunal and finds it to be fair. It accepts that the disciplinary policy was not an appropriate policy to use but finds that the steps taken by the Respondent are those steps that it would expect an organisation to take when considering capability in terms of ill health. The Tribunal understands that the Respondent now has the appropriate policies in place. The Claimant was told in advance what the meetings were about, she had the opportunity to be represented by her trade union representative or colleague, there were review dates and appropriate referrals to occupational health and approaches to her GP and the Claimant was warned that her continued employment was at risk.

48. The Respondent waited a reasonable length of time to see if the Claimant's medical condition would improve so that she could do her full duties on a full-time basis and the Tribunal find it was reasonable to say that it could not wait any longer given the impact on the business and the Claimant's colleagues. The Claimant's claim for unfair dismissal is dismissed.

Employment Judge Martin
Date: 12 July 2021