



# EMPLOYMENT TRIBUNALS

**Claimant:** Kim Bull

**Respondent:** John Lewis Plc

**Before:** Judge M Aspinall (sitting as an Employment Judge),  
Mr W Dixon  
Ms F Whiting

**At:** London South Employment Tribunal

**On:** 25 to 28 March 2024 (by video)

**Appearances:** Ms K Bull, in person  
Mr C McDevitt, Counsel for the Respondent

## RESERVED JUDGMENT

Claims of unfair dismissal, discrimination arising from disability, and failure to make reasonable adjustments are unanimously found to be not well-founded and are dismissed.

## REASONS

### Background

1. The Claimant, Ms Kim Bull, was employed by the Respondent, John Lewis PLC, as a Product Specialist at their Kingston branch from January 2017 until her dismissal in December 2022.
2. Ms Bull initially worked in the Women's department at the Kingston store. In March 2022, after returning from a period of absence, she was moved to the Menswear department following issues that had arisen in Women's Wear.
3. During 2021 and 2022, Ms Bull had several periods of sickness absence related to medical conditions including peri-menopausal symptoms, post-herpetic neuralgia, stress and anxiety. From June 2022 onwards, her absence was attributed primarily to stress and anxiety arising from having to deal with a difficult family situation relating to her mother in the United States.

4. In July 2022, Ms Bull was referred to Occupational Health. The Occupational Health reports advised that Ms Bull was unfit for work and no return date could be provided, as her health was being significantly impacted by the ongoing family issues. Adjustments including a phased return to work and reduced hours were explored.
5. Communication between Ms Bull and her line manager throughout mid to late 2022 indicates that whilst the Respondent was supportive, they had concerns about the sustainability of Ms Bull's prolonged absence from work.
6. In December 2022, following a meeting to discuss Ms Bull's absence levels, she was dismissed by the Respondent on capability grounds. Ms Bull appealed this dismissal, however the appeal was rejected in January 2023.
7. Ms Bull has brought claims against the Respondent for disability discrimination, failure to make reasonable adjustments and unfair dismissal. The full merits hearing was held over 4 days in March 2023, with both parties attending remotely. The Tribunal heard witness evidence and submissions from the parties before reserving Judgment.

## **Claims**

8. The Claimant brought claims against the Respondent for direct disability discrimination, failure to make reasonable adjustments and unfair dismissal.
9. The Claimant contends that the Respondent subjected her to detrimental treatment and dismissed her because of something arising in consequence of her disability. It is alleged that the Respondent failed to make reasonable adjustments to workplace policies and practices that placed the Claimant at a substantial disadvantage due to her disability.
10. Specifically, the Claimant argues that the Respondent should have offered her a career break or period of carer's leave during her sickness absence to deal with her family situation overseas. She states that the refusal to provide this adjustment amounted to unfavourable treatment and discrimination related to her disability.
11. It is the Claimant's position that a career break or carer's leave would have enabled her to address the stressful family circumstances that were exacerbating her disability symptoms. She asserts that the Respondent's failure to make this adjustment led to her prolonged absence and subsequent dismissal.
12. The Claimant also alleges that her dismissal for ill health capability was an act of disability discrimination. She argues it was intrinsically linked to her periods of disability-related sickness absence for which reasonable adjustments should have been made.
13. Additionally, the Claimant contends that her dismissal was procedurally and substantively unfair. She claims the capability dismissal process was flawed and that her lengthy absence did not justify dismissal given her disability

situation.

14. In response, the Respondent denies the allegations of discrimination, failure to make adjustments or unfair dismissal. The Respondent argues that the Claimant did not meet the eligibility criteria for a career break or carer's leave during her sickness absence. It is the Respondent's position that her prolonged absence and eventual dismissal were wholly lawful and justified.
15. Issues for the determination of the Tribunal
16. The issues were agreed as being those set out in the Case Management Order of EJ Abbott on 5 December 2023 (pages 53 – 58 of the bundle).
17. The Respondent conceded that the Claimant was disabled within the meaning of the Equality Act 2010 from late June 2022 onwards. The Respondent accepted that the Claimant's peri-menopausal symptoms, along with stress and anxiety arising from having to deal with family issues relating to her mother in Dallas, amounted to disabilities for the purposes of the Act.
18. The Claimant did not challenge this concession by the Respondent and confirmed she accepted it. She expressed gratitude to the Respondent for making this concession, which established her disabled status under the Act for the period from late June 2022 until the end of her employment.

### **The law**

19. The Equality Act 2010 sets out the statutory framework prohibiting discrimination related to protected characteristics. The Act defines disability in section 6 and prohibits direct discrimination because of disability under section 13. Section 15 prohibits discrimination arising from disability:
20. "15(1) A person (A) discriminates against a disabled person (B) if - (a) A treats B unfavourably because of something arising in consequence of B's disability, and (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim."
21. Sections 20-21 impose a duty on employers to make reasonable adjustments for disabled employees and prohibit a failure to comply with that duty.
22. The Employment Rights Act 1996 establishes the right of employees not to be unfairly dismissed in section 94. Section 95 defines circumstances amounting to dismissal and section 97 specifies how the effective date of dismissal is determined.

### **The hearing**

23. The full merits hearing in this matter took place over 4 days between 21st and 28th March 2023. It was conducted remotely via Cloud Video Platform, with the Claimant attending from the United States and the Respondent's representatives joining from the UK.

24. We adjusted the start and end times of the hearings to make some allowance for the time difference between the UK and Washington (state) where Ms Bull now resides.
25. The Claimant represented herself at the hearing. The Respondent was represented by counsel, Mr McDevitt.
26. At the outset, the Judge explained the process that would be followed during the hearing. The parties confirmed there were no preliminary issues to be addressed before continuing to the main evidence.
27. The Tribunal heard live evidence from the Claimant, Ms Kim Bull. It also heard from two witnesses called by the Claimant - Ms Felicity Marfé and Ms Alina Justice. The Respondent called two witnesses to give evidence - Ms Anya Song, the Claimant's line manager, and Ms Mia Mihell, the manager who conducted the Claimant's appeal hearing. All witnesses were sworn in and gave their evidence under affirmation.
28. The parties had jointly prepared an electronic hearing bundle running to over 1000 pages which was available to the Tribunal throughout. This contained documents relevant to the issues in dispute, including copy employment records, policies, email exchanges, medical evidence and notes from internal meetings.
29. After completion of the witness evidence, the Claimant and the Respondent were each given an opportunity to make closing submissions. The Claimant provided hers in writing, which the Tribunal considered. Counsel for the Respondent made oral closing submissions which were also considered.
30. The Tribunal then reserved its judgment to be handed down in writing later, following consideration of all the evidence and materials presented during the hearing.

## **Evidence**

31. The Tribunal was referred to the Claimant's ET1 claim form dated 20 April 2023 which set out the details of her claims of unfair dismissal and discrimination. This was accompanied by a detailed explanation of the background facts leading up to her dismissal.
32. The Tribunal next considered the Respondent's ET3 response form dated 26 May 2023. This denied the claims and set out the Respondent's position that the Claimant had been fairly dismissed due to long term sickness absence. The ET3 referred to relevant policies in the Partner Handbook regarding sickness absence management.
33. The Tribunal was taken to the Claimant's witness statement dated 13 March 2024. This gave background on her employment and expanded on the issues covered in her ET1 claim form. It set out her view of how her line manager had failed to properly discuss adjustments or alternative leave arrangements. It also complained about an alleged campaign of bullying by

colleagues.

34. The Tribunal considered each of the witness statements for all the witnesses. We also reviewed and considered any documents from the bundle which were referenced in those statements.
35. We considered all the documents to which we were referred in oral evidence.
36. The Tribunal heard oral evidence from the Claimant, Ms Bull, where she expanded on her witness statement, giving further details about her disability and how she felt her line manager had not properly considered adjustments or alternative leave options. Under cross-examination, she accepted that she had been off sick and unfit for work during her sickness absence, though stated she felt this was used as a pretext for dismissal.
37. In her oral evidence, Ms Bull stated that the real reason for her extended absences was the stress and anxiety caused by having to deal with the situation with her mother in the US. She accepted that during her sickness absence she was unfit for work, as confirmed by her doctor's fit notes and the occupational health reports. When asked if the issues with her mother had now been resolved, Ms Bull confirmed they had not yet been fully resolved, even now nearly two years after her dismissal. She did not provide a clear indication as to when she would have been fit to return to work if her employment had continued. She confirmed that she is not working now and had not done so since leaving her employment with the Respondent.
38. In her evidence, Ms Bull contended that the Respondent should have offered her alternative leave options such as a career break or carer's leave instead of keeping her on sickness absence. She stated that this would have allowed her to go to the US and properly deal with the situation regarding her mother, which was a major source of her stress and anxiety. She felt that by not suggesting these alternative leaves, her line manager had ignored viable options that could have allowed Ms Bull to eventually return to work. However, Ms Bull accepted that she had not specifically requested or applied for any alternative leave options herself during her employment. She also did not point to any written policy that prevented alternative leave being considered alongside sickness absence, instead stating that she believed her manager should have proactively suggested this to her.
39. Ms Bull argued that granting her a career break or carer's leave in June 2022 would have provided her with additional flexibility and financial support that being on sickness absence did not. In particular, she stated that she could have used funds from selling her flat to fight the legal case regarding her mother if she had been on a career break. However, it was not clear from her evidence how being on a career break would have resolved the legal proceedings sooner or improved her fitness to eventually return to work. Overall, while Ms Bull felt alternative leave types could have been an option, her evidence did not clearly explain why this would have made a material difference to her situation or ability to return to work.
40. The Tribunal found Ms Bull to be evidently passionate and sincere in her

belief that the Respondent should have handled matters differently to support her situation. However, her evidence at times displayed a lack of objectivity and introspection regarding her own prolonged sickness absence. While understandably aggrieved at her dismissal, she did not engage substantially with the factual evidence demonstrating her unfitness for work over an extended period. Her contention that alternative leave options could have resolved matters was largely unsubstantiated and she failed to explain how her underlying stress-related issues impacting her health would have been cured by an unpaid career break or similar. While she clearly had faced much personal adversity, Ms Bull did not manage to convincingly convey that her dismissal was unreasonable or discriminatory considering the objective facts regarding her capability.

41. The Tribunal heard evidence from Mrs Alina Justice, a colleague of the Claimant who assisted her with her appeal. In examination-in-chief, Mrs Justice stated that she had helped the Claimant research alternative leave options like career breaks and carer's leave by looking at the Respondent's intranet. She confirmed suggesting to the Claimant that such options could potentially have been available.
42. However, under cross-examination, it became clear Mrs Justice had very limited knowledge of the Claimant's full sickness history or medical reasons for absence. She admitted she was unaware of the Claimant's fit notes and not privy to the occupational health reports. She did not know the Claimant had been signed off work continuously from 2 June 2022. When asked directly, she confirmed she did not actually know whether the Claimant was medically fit for work or not during her absence.
43. Overall, while Mrs Justice was able to advise on possible leave policies that existed in theory, it was clear she could not provide any substantive evidence regarding the Claimant's medical fitness for work. She had no direct insight into whether the Claimant was correctly signed off sick by her doctors. Her evidence was speculative about leave options being available, without awareness of the Claimant's full sickness position. Therefore, while supportive of the Claimant's viewpoint, Mrs Justice's evidence did not demonstrate detailed knowledge of the key medical and sickness issues central to the Claimant's dismissal.
44. The Tribunal heard extensive evidence from Ms Anna Bardessono-Lison, the Claimant's line manager. In examination-in-chief, she provided significant detail on the management of the Claimant's frequent sickness absences from November 2021 onwards. She confirmed referring the Claimant to occupational health on two separate occasions, in July and October 2022, after her absences became prolonged.
45. Ms Bardessono-Lison explained that both occupational health reports stated the Claimant was unfit for work with no set return date. She emphasized that she sought regular HR guidance on managing the absence issues. After the Claimant's sickness levels reached the high threshold of 65% absence, Ms Bardessono-Lison stated she was advised capability proceedings should commence, which she acknowledged was a last resort option.

46. Under cross-examination, Ms Bardessonno-Lison accepted that her email exchanges with the Claimant during the various absences were supportive. She agreed she had not specifically raised other leave options in these communications, focusing more on when the Claimant may return. Ms Bardessonno-Lison stated that as the Claimant was signed off sick, she concentrated on getting her better and back to work rather than suggesting unpaid breaks.
47. In re-examination, Ms Bardessonno-Lison reiterated that there were no viable adjustments that could have been made to get the Claimant back to work sooner, given she was medically unfit. She could not predict when the Claimant's situation with her mother would be resolved. Overall, Ms Bardessonno-Lison's evidence painted a picture of an initially supportive manager struggling to deal with an employee on prolonged sickness absence with no return date.
48. The Tribunal heard evidence from Mrs Annie Mihell, the manager who conducted the appeal against the Claimant's dismissal.
49. In examination-in-chief, Mrs Mihell confirmed she had carefully reviewed all the paperwork from the capability meeting along with the Occupational Health reports before deciding to uphold dismissal. She stated this included the full history of the Claimant's absences and medical opinion that she remained unfit for work indefinitely.
50. Under cross-examination, Mrs Mihell provided nuanced evidence about alternative leave options. She accepted managers could agree shorter notice periods for career breaks in appropriate cases. However, her firm view was that career breaks or carer's leave would not normally be considered alongside prolonged sickness absence.
51. The Tribunal found Mrs Mihell to be a measured and reasonable witness. She displayed a balanced understanding of company policy and procedure. She did not portray any agenda against the Claimant. Rather, she explained the rationale for upholding the dismissal decision in an impartial manner.
52. Overall, the Tribunal found Mrs Mihell's evidence reliable. She provided thoughtful insight into the limits on adjusting leave policies for employees simultaneously on sickness absence. Her evidence indicated the dismissal appeal process was conducted fairly and professionally in line with policy and the circumstances of this case.
53. In conclusion, the Tribunal was satisfied that Mrs Mihell's evidence demonstrated the Claimant's appeal was handled in a reasonable and non-discriminatory manner involving due consideration.

## **Findings of the Tribunal**

### Time Limits

54. The Tribunal finds that the failure to make reasonable adjustments complaint

relates to the Respondent's alleged failure to offer the Claimant a career break in March 2022 or June 2022.

55. The claim was presented to the Tribunal on 20 April 2023. This is more than 3 months after March 2022 and June 2022.
56. However, the Tribunal exercises its discretion under s.123(1)(b) Equality Act 2010 to extend time on the basis that it is just and equitable to do so. The Claimant has provided a reasonable explanation that she was preoccupied with complex personal issues at the time, which provides sufficient reason for the delay.

#### Disability

57. The Tribunal found previously that the Claimant did have a disability at the relevant time, as defined under s.6 Equality Act 2010.
58. The Respondent has conceded that the Claimant had the disability of perimenopause symptoms and stress/anxiety from June 2022 onwards. This amounts to physical and mental impairments under s.6(1). The Claimant has accepted this concession.
59. The medical evidence indicates these conditions had a substantial adverse effect on her ability to carry out normal day-to-day activities, meeting the test in s.6(1)(b).
60. The Tribunal finds the Respondent was aware of the Claimant's disability from June 2022 based on the Claimant's discussions with her manager.

#### Discrimination Arising from Disability

61. Dismissal is an unfavourable act under s.15 Equality Act 2010. The Tribunal finds the Claimant was dismissed by the Respondent. This was common ground in any event.
62. However, the Tribunal finds that the Claimant's sickness absence did not all arise in consequence of her disability, based on the medical evidence. The sickness notes referred to a range of other conditions beyond, and before, her disability.
63. As the sickness absence did not solely arise from disability, the Respondent did not dismiss the Claimant because of something arising in consequence of disability.
64. Even if the Claimant had been dismissed because of absence resulting from her disability, we were satisfied that any dismissal would have been fair and reasonable in all of the circumstances.
65. Even if the Tribunal had found that the Claimant's sickness absence was as a result of her disability, the dismissal would still have been reasonable and fair. This is because of the exceptionally long duration of her absence and the consistent medical evidence that she was not fit for work.



66. The Claimant had already been absent for over 26 weeks by the time of her dismissal. This amounted to an absence rate of 65%, which was clearly unsustainable for her role. The Respondent had attempted to support her return through temporary adjustments like reduced hours. However, her absence persisted.
67. Critically, the GP fit notes stated the Claimant was "not fit for work" throughout her absence. Both the July and October 2022 Occupational Health reports expressly confirmed she was "unfit for work presently". Neither report could provide any expected return date.
68. The medical evidence was unanimous that the Claimant could not currently perform her duties or normal day-to-day activities. There was no indication of if or when she may recover. It was reasonable to infer that her absence would continue indefinitely.
69. In light of this, the Respondent had no choice but to dismiss on capability grounds. It had already allowed the absence to continue for 6 months with no return date. It could not be obliged to hold the job open any longer in these circumstances.
70. Even though the Claimant was disabled, the overwhelming medical evidence confirmed she remained unfit for work with no prospect of imminently returning. Incapability was the fair and reasonable basis for dismissal regardless of the disability.
71. There was no breach of s.15 Equality Act 2010 and the discrimination claim fails.

#### Reasonable Adjustments

72. The Tribunal finds that the Respondent did have a provision, criterion or practice (PCP) of not offering unpaid career breaks to employees on sickness absence. This amounted to a practice rather than a strict policy.
73. The Tribunal found no evidence that the Respondent was aware, or should have reasonably been aware, that its practice of not offering career breaks alongside sickness absence placed the Claimant at a disadvantage.
74. The onus was on the Claimant to specifically notify the Respondent that she needed some adjustment or alternative leave arrangement. However, she did not raise concerns about being disadvantaged, request a career break, or ask for the policy to be adjusted for her.
75. The Claimant was signed off work as sick by her GP. It was reasonable for the Respondent to believe she was unfit and focus on supporting her return to work. In the absence of any request, the Respondent could not be expected to foresee that not offering a career break somehow disadvantaged her.
76. There was no indication in the medical evidence or Occupational Health reports that a career break specifically could aid the Claimant's return to

work. She did not explain how it would help her situation. The Respondent did not have insight into how being on paid sick leave supposedly placed her at a disadvantage compared to an unpaid career break.

77. In the circumstances, where the Claimant was signed off sick but did not ask for or highlight any need for a career break, there was no evidential basis on which the Respondent knew or should have known that its standard practice disadvantaged her. The Respondent acted reasonably given the information available.
78. The Tribunal also considered that had the Respondent actively suggested the Claimant take unpaid leave like a career break whilst signed off sick, this could have potentially placed her at a disadvantage or even amounted to harassment.
79. While on sick leave, the Claimant remained entitled to contractual and statutory sick pay. However, had she been pushed to take a career break or other unpaid leave type instead, she would have lost this entitlement. Removing sick pay could worsen her situation financially.
80. Given she was certified unfit for work, it would be inappropriate for the Respondent to propose unpaid leave. This could have risked disadvantaging her due to sickness absence arising from disability. It could even have been argued to amount to unacceptable harassment of a disabled worker.
81. Therefore, considering her entitlement to sick pay whilst off ill, the Respondent was right to not suggest or encourage unpaid leave options unless raised by the Claimant herself. This avoided potential detriment or harassment. The onus remained on her to request any alternative arrangements.
82. The Tribunal considered the Claimant's argument that a 12-month career break from June 2022 would have allowed her to resolve her mother's care issues. However, the evidence indicates this was unrealistic and any career break would have made no material difference.
83. The key facts are that from 2 June 2022 until her dismissal, the Claimant was not at work. This equated to a de facto career break where she had significant time available to deal with her personal situation, albeit she was in receipt of sick pay for much of it. During this time, she travelled extensively to the US and ultimately sold her London flat in October 2022.
84. Despite having this extensive period of absence along with funds from selling her flat, the Claimant confirmed to the Tribunal that as of March 2024, her mother's care issues remain unresolved. Legal proceedings are still ongoing. Difficulties with her aunt persist regarding her mother's welfare.
85. Critically, at the time of her dismissal in December 2022, the clear medical evidence was that the Claimant would remain unfit to work until these family issues were concluded. The Respondent could not be expected to keep her employment open indefinitely based on an unpredictable timeline for

resolution.

86. Therefore, with the benefit of hindsight, the Tribunal finds the Respondent allowing a formal 12-month career break from June 2022 would have made no difference. The Claimant has effectively had such a break since that date already, which has not resolved her situation. There is no evidence a career break would have enabled her to conclude complex US legal proceedings within 12 months. Her capability to work was contingent on resolving her mother's care, which she failed to do.
87. In conclusion, whether paid sickness absence or unpaid career break, the fundamental problem remained of the Claimant being unfit for work without indication of when this would change. A career break would not have altered the trajectory of her capability or facilitated any quicker resolution. Her argument is wholly unrealistic considering what transpired.
88. For these reasons, there was no breach of the duty to make reasonable adjustments in s.20 and s.21 Equality Act 2010.
89. The Tribunal also considered the Claimant's contention that she should have, alternatively, been granted Carer's Leave to deal with her mother's situation. However, we find she did not qualify for this type of leave under the Respondent's policy or on a common-sense basis.
90. Firstly, the Claimant was based in London while her mother resided in a care facility in Dallas, Texas. This amounts to a distance of approximately 5,500 miles. It is plainly not feasible to provide hands-on personal or medical care from such a distance. The Claimant was therefore not actively caring for her mother's physical needs.
91. Secondly, her mother was a resident of a professional care home with round-the-clock staff. The provision of care was entrusted to the home's employees. The Claimant was not personally delivering care at the facility.
92. Finally, while the Claimant had Lasting Power of Attorney over her mother, this legal authority alone does not equate to being the daily hands-on carer as envisaged by Carer's Leave. The "man on the Clapham omnibus" would not view the Claimant as a carer based on these facts.
93. In conclusion, given the vast distance and her mother's residence in a care home, the Tribunal finds the Claimant did not qualify for Carer's Leave under any reasonable interpretation, irrespective of her valid Power of Attorney. This was not a feasible alternative option in the circumstances.

#### Unfair Dismissal

94. The Tribunal finds that the reason for the Claimant's dismissal was capability, which is a potentially fair reason under s.98(2) Employment Rights Act 1996.
95. Having regard to the factors in s.98(4) Employment Rights Act 1996, the Tribunal concludes that the dismissal was fair in all the circumstances. In

particular:

96. The Respondent genuinely considered the Claimant was incapable of doing the job, based on extensive sickness absence, GP fit notes, the Claimant's own assertions, and Occupational Health reports (s.98(4)(a)).
97. There was reasonable consultation through meetings and appeal (s.98(4)(b)). We bore in mind that, save for a short period in October 2022 when she sold her flat, the Claimant was in the USA from June 2022 and has not returned.
98. Medical investigations were conducted via Occupational Health (s.98(4)(c)). GP fit notes were reasonably relied upon.
99. It was reasonable to dismiss after 6 months continuous absence (s.98(4)(d)).
100. Dismissal was within the range of reasonable responses given the absence duration and lack of plausible return date (s.98(4)(e)). We noted that the proposed return dates – suggested by the Claimant in her repeated email exchanges with her line manager – would be just about due and the Claimant would move the goalpost.
101. The unfair dismissal claim therefore fails.

## Conclusions

102. Having carefully considered all the evidence and submissions, the Tribunal unanimously concludes that the claims of unfair dismissal, discrimination arising from disability, and failure to make reasonable adjustments are not well-founded.
103. The key factor weighing against the Claimant's case is the consistent medical evidence over a prolonged period confirming she was unfit to work, with no indication of if or when she may recover. The GP fit notes and Occupational Health reports unanimously found her incapable of performing her duties.
104. Against this backdrop, the Respondent made significant efforts to support her, including temporary adjustments and repeatedly seeking medical opinion. However, faced with ongoing absence exceeding 6 months, it was left with no choice but to fairly dismiss on capability grounds.
105. On disability discrimination, the claim fails because the evidence did not establish her absence arose from her disability, but rather a range of non-disability related conditions. In any event, even if it did, dismissal was still reasonable given the medical opinions.
106. Regarding reasonable adjustments, there was no proof the Respondent knew or should have known the Claimant was disadvantaged by not being offered alternative leave. She was signed off sick but did not specifically request any leave or raise disadvantage. It was not unreasonable to focus on her fitness to return rather than suggest unpaid breaks.

107. Likewise, the Tribunal finds the Claimant did not qualify for Carer's Leave given she was not actively caring for her mother in Texas while living in London. The Power of Attorney alone does not make her the primary carer.
108. Critically, even with the benefit of hindsight, her personal issues remain unresolved despite an effective career break since June 2022. There is no evidence that a formal career break would have made any difference to her ability to return to work.
109. In conclusion, while the Claimant clearly faced much adversity, she unfortunately remained unfit for work indefinitely. The Respondent acted reasonably in response to the extensive medical evidence. It made significant efforts to support her until dismissal on capability grounds became the only viable option.
110. The Tribunal sympathises with the Claimant's situation but must dispassionately apply the law to the facts. We unanimously find the high threshold for establishing unlawful discrimination or unfair dismissal has not been met on the balance of probabilities in this case.
111. Therefore, for these reasons, the Tribunal dismisses all claims. There shall be no award of compensation or damages. The Claimant has failed to demonstrate that the Respondent did anything other than act fairly, reasonably, and lawfully at all material times.

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Employment Judge M Aspinall  
Date: 1 April 2024

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