

Knowledge of disability is essential

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In *Patel v Lloyds Pharmacy Ltd*, the Employment Appeal Tribunal struck out Mr Patel's claim for direct disability discrimination because there was no evidence that the manager accused of discrimination was aware of his disability.

Mr Patel had previously worked on a locum basis for Lloyds

Pharmacy and when interviewing for that role back in 2008, he informed the interviewer that he suffered from bipolar disorder. In 2011, he applied for a permanent position with Lloyds and was interviewed by a different manager. His application was unsuccessful and he brought a claim for discrimination.

During the litigation, emails were disclosed which showed that the second interviewer had exchanged emails with the original interviewer which were critical of Mr Patel's performance. However, therefore was no mention of disability in those emails and there was no evidence that the second interviewer had any knowledge of Mr Patel's disability.

The Employment Appeal Tribunal said that it would be wrong to allow an apparently hopeless case to proceed on the grounds that something might turn up in cross examination showing that the interviewer was in fact aware of Mr Patel's disability.

This is a rare example of a Tribunal taking a robust approach to an unmeritorious discrimination claim. Given that the Tribunal Rules have recently been changed to encourage Tribunal Judges to weed out weak cases at an early stage, it is likely that we will see more of this over the coming months. When faced with spurious claims, employers should certainly consider going for a strike out and this case will be a useful weapon to deploy.

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