

DISCRIMINATION LAW ASSOCIATION

Briefings

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What happens when employees who are prescribed medical cannabis fail a mandatory drug test?

Truman v SPL Powerlines UK Ltd [2026] EAT 54; 1 May 2026

Implications for practitioners

The judgment highlights the challenges employers face when navigating D&A testing requirements, prescribed medical cannabis use, and mitigating the risk of a claim of disability discrimination.

Facts

This case arose when the claimant, Mr Jack Truman (JT), an experienced rail industry worker, was unable to take up a new role with SPL Powerlines UK Ltd (SPL) after failing a drug and alcohol (D&A) test. Network Rail required this under its mandatory authorisation system (Sentinel) for people working in safety-critical roles. JT suffered from an incurable condition (genetic haemochromatosis) the principal symptom of which was chronic pain, particularly in the joints. In 2022, he was prescribed medical cannabis to manage that pain.

In order to gain Sentinel authorisation, JT had to comply with Network Rail's D&A testing policy, which stated that where a prohibited substance was detected, this could still be recorded as a pass if the medical review officer was satisfied it was attributable to a declared and legitimate medical prescription.

The ET found that National Rail was a qualifications body but was exempt from s20 because it applied a 'competence standard'

Network Rail's D&A test was administered by Express Medicals Ltd. JT told them that he was prescribed medical cannabis and showed evidence of his prescription. However, despite the exception in paragraph 9.4.4 of Network Rail's policy, Express Medicals recorded the claimant's result as a fail. In turn, SPL withdrew its job offer and JT was banned from undertaking any safety-critical work in the rail industry for five years. The claimant attempted to appeal his rejection internally; however, the outcome was unsuccessful.

Employment Tribunal

JT brought claims under the Equality Act 2010 (EqA) against both SPL and Network Rail for discrimination arising from a disability (s15) and failure to make reasonable adjustments (s20). He also brought claims against Express Medicals alleging it caused, induced or knowingly assisted discriminatory treatment in breach of s111 and s112 EqA. At no point did the respondents dispute that the claimant was disabled for the purposes of the EqA.

The ET found that National Rail was a qualifications body but was exempt from s20 because it applied a '*competence standard*' as per s53(7). However, the judgment went on to comment that had Network Rail applied its D&A testing policy correctly, JT's test should have been recorded as a pass. The judge also acknowledged that JT had clearly '*suffered an injustice*' [para 1]. Despite this, the ET dismissed all of the claimant's disability discrimination claims against all three respondents.

As part of his s20 claim, JT pleaded that he was put at a substantial disadvantage by being less likely to pass the D&A test because 1) his medical information was not passed on and 2) because he was not able to appeal against the outcome. These were the provision, criterion or practices (PCPs) that JT argued gave rise to a claim for failure to make

reasonable adjustments. However, the ET considered that these were not the real source of the disadvantage; the PCP should have been the requirement to pass the D&A test.

The ET was highly critical of Express Medicals, finding it had wrongly assumed JT was using cannabis over and above his prescription and could theoretically help Network Rail 'commit an act of discrimination'...

In relation to his claims against SPL, the ET held that the respondent was justified in withdrawing the job offer because the claimant had failed the D&A test and that *'he was under no more of a disadvantage than another worker without a disability who tested positive for a prohibited substance and whose medical information was not passed on'.* [para 163]

The s20 claim against Network Rail failed for the same reasons.

The ET was highly critical of Express Medicals, finding it had wrongly assumed JT was using cannabis over and above his prescription and could theoretically help Network Rail '*commit an act of discrimination against those subjected to D&A testing*'. [para 177] The tribunal concluded that had the claim succeeded against Network Rail, Express Medicals could also have been liable for causing/inducing discrimination under s111 EqA.

Employment Appeal Tribunal

The claimant appealed to the EAT arguing that the ET had erred on two main grounds:

- holding that the requirement to pass the D&A test was a '*competence standard*'; and
- holding the D&A test applied to everyone equally and had not put the claimant at a substantial disadvantage for the purposes of reasonable adjustments.

National Rail cross-appealed on the ET finding that it was a '*qualifications body*' and Express Medical cross-appealed on the issue of liability under s111 EqA.

The EAT dismissed the claimant's appeal on the competence standard issue but allowed the appeal relating to substantial disadvantage and comparators. At para 115 of the judgment, it held that it was unclear on what basis the ET reached its conclusions about substantial disadvantage. The EAT also dismissed Network Rail's cross-appeal, holding that Network Rail was clearly acting as a qualifications body for the purposes of ss53–54 EqA.

The EAT allowed Express Medicals' cross-appeal, finding it not liable because the conditions in s111 EqA were not satisfied.

The case was remitted back to the ET on the issue of substantial disadvantage.

Comment

A key takeaway from this case is that both the ET and EAT endorsed the view that an employer's PCP of requiring employees to pass a D&A test could place employees who need prescribed medical cannabis at a particular disadvantage because of their disability. In these circumstances, the duty to make reasonable adjustments may be engaged, and employers will need to consider whether their D&A policies are adequately drafted to include provisions that permit lawfully prescribed medication.

They should also be aware that if they outsource testing to a third-party provider, they may still retain liability for the outcome. Given the increased use of medical cannabis and other controlled substances, employers should not assume that a positive result in a D&A test automatically justifies the employer in withdrawing a job offer or taking disciplinary action against an employee. Employers should check the relevant medical history and current prescriptions before drawing any conclusions.

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