

## *Employment: Paranoid Delusions, but No Disability: Sullivan v Bury Street Capital Limited UKEAT/0317/19/BA, 9 September 2020, Choudhury J*

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Section 6 of the Equality Act 2010 ('EqA') provides that a person is disabled for the purposes for the Act if s/he has a physical or mental impairment that has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. An impairment is considered to have a long-term effect if it has lasted for at least twelve months; or is likely to last for at least twelve months; or is likely to last of the rest of that person's life.

Mr Sullivan, who had suffered from paranoid delusions during his employment, appealed against an Employment Tribunal finding that he was not disabled with the meaning of EqA, therefore rejecting his disability discrimination claim against his employer (but upholding his unfair dismissal claim).

Mr Sullivan was employed as a Senior Sales Executive. From the outset of his employment, his employer had concerns about his attitude and time-keeping. In early 2013 Mr Sullivan had a short-term relationship with a Ukrainian woman. Following a traumatic relationship breakdown, he believed he was being stalked by Russian gangs. As a result of his mental health difficulties, Mr Sullivan's attendance and performance at work were affected, but by September 2013 there had been an improvement. Mr Sullivan received psychological treatment, and even though his paranoid delusions continued, he was able to concentrate on his work. An employee who joined the company in 2014 was unaware of Mr Sullivan's paranoia. In April 2017 Mr Sullivan's mental health deteriorated again. Later that year, the employer's long-standing concerns about Mr Sullivan's behaviour and timekeeping deepened. Following a performance and remuneration review, Mr Sullivan informed his manager that he would be signed off sick for four weeks. The employer decided to terminate his employment.

The EAT upheld the ET's finding that Mr Sullivan's delusions, although having a substantial adverse effect in 2013 and again in 2017, were temporary and intermittent and that it was not likely that the adverse effect would last for twelve months or that it would recur. Mr Sullivan, therefore, did not qualify as a disabled person. The ET had also been correct in deciding that the employer did not know and could not reasonably be expected to know of the disability.

This case shows that the ET is required to assess closely whether an impairment has a long-term effect, and that fluctuations in the effect of an impairment may mean that a claimant is unable to bring her/himself under the statutory definition of disability under EqA.