

Can an application to postpone a hearing be refused?

This case highlights the importance of Claimants obtaining their own medical evidence in such matters especially when it is pivotal to their claim.

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The Court of Appeal had held that a refusal to postpone a hearing to allow time for a medical report to be obtained was not an error of law.

In the case in question, *Morton v Eastleigh CAB*, the Claimant brought a claim of disability discrimination in relation to her depression, anxiety, eating disorder and agoraphobia following her dismissal. As part of its case management powers, the Tribunal ordered the Claimant to provide further information in respect of her alleged disabilities and indicated that if disability was not conceded, a joint medical report would be required.

Following receipt of further information, the Respondent conceded one of, but not all, the Claimant's disabilities and set out that it did not think a report was necessary. At first, a judge set out that it would still be necessary if the Claimant wanted to rely on these conditions however 11 days before a preliminary hearing another judge set this requirement aside.

The Claimant again requested a joint report and asked the preliminary hearing to be postponed. The application was refused by the employment judge.

After appealing to the EAT and then to the Court of Appeal, on the grounds that the application should have been granted given conflicting decisions, the Court of Appeal dismissed the appeal.

It was held that an application for postponement was a case management issue and therefore a judge has overall discretion.

The case highlights the importance of Claimants obtaining their own medical evidence in such matters especially when it is pivotal to their claim.

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