

4.11 Deputy M. Tadier of St. Brelade of the Chair of the States Employment Board regarding the recent ruling of the Employment and Discrimination Tribunal regarding the dismissal of a member of staff in Revenue Jersey (OQ.222/2025):

Further to the recent ruling of the Employment and Discrimination Tribunal regarding the dismissal of a member of staff in Revenue Jersey, will the chair confirm why the States Employment Board has sought to appeal this ruling? Does he consider it a good use of public resources?

Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter (Chair, States Employment Board):

Sir, with the consent of Deputy Tadier, the vice-chair will take the question.

Deputy M.R. Ferey of St. Saviour (Vice-Chair, States Employment Board - rapporteur):

I thank the Deputy for the question. As this matter relates to a private individual and a still live appeal process, it would not be appropriate or fair to share specific details. I can confirm, however, that the decision is being appealed on procedural issues. New allegations were raised after the States Employment Board had filed evidence and written arguments and there was subsequently no opportunity to address the points that were raised. The points are being challenged in order to avoid setting a precedent in employment matters and to ensure that the interpretation and application of the legislation is clearly understood by both employers and employees. There are wider implications of this case and this is why it is considered to be an appropriate use of public resources to proceed with an appeal.

4.11.1 Deputy M. Tadier:

Of course this ruling is in the public domain and I do have the permission also of the constituent of mine to speak and ask this question. Does the Minister accept that what we are talking about here is that he does not accept the ruling of the Employment Tribunal? The States Employment Board did put it to them that the condition that they were saying for stress being considered, and in fact the mental impairment here, which they upheld in the case of my constituent, meant that the S.E.B. position was rejected. Does the vice-chair of the tribunal not agree that this is a case of the Government not accepting a very clear finding of the tribunal and it is going to result in increased trauma and anguish for my constituent and her husband to go through what has already been months of suffering simply because they cannot accept a ruling of a body that he has voted on himself?

Deputy M.R. Ferey:

I think first and foremost our intention is not to cause any further distress to the ex-employee, but there are 2 issues here. Firstly, there is procedural unfairness and, secondly, there is setting of precedent. I think employers need to fundamentally have a good understanding of how they manage sickness absence and the definition of disability. It is very unusual for stress to be considered as a disability and that is what we are appealing against. Also an occupational health doctor did not class stress as a disability and considered that the employer had put everything in place to make sure that the employee was properly supported. There is also a case of procedural unfairness where the tribunal found against the employer because they said it was disproportionate not to have offered the employee an alternative role elsewhere in Government. This was a new allegation after the raising and filing of our evidence and written

arguments and the tribunal did not give us the opportunity to rebut this, which we consider to be procedurally unfair.

4.11.2 Deputy J. Renouf of St. Brelade:

Can the Minister therefore confirm that the issue at stake is point 166 in the ruling by the tribunal, which says that: “While stress may not amount to a mental impairment in every case, the tribunal has found that, based on the symptoms of the claimant’s stress in this case, it did”? In other words, is the reason why this is being appealed because the Government do not accept that ruling?

Deputy M.R. Ferey:

That is correct.

4.11.3 Deputy J. Renouf:

Can I also, therefore, clarify with the vice-chair, has he been subject to any lobbying by business groups to try to clarify this process so that the Government will clarify this from the point of view of businesses?

Deputy M.R. Ferey:

I have not been approached by any lobby groups or any individuals in relation to this case.

4.11.4 Deputy M. Tadier:

I found it curious at a business breakfast the other day that the business community were talking about stress being a new factor and the penny did not drop that it was related to this case until now. Does the Minister accept that he has misrepresented the position of the tribunal? The tribunal say that stress on its own does not constitute necessarily grounds for discrimination, or indeed a protected characteristic, but in this case the claimant had been proven to have a mental impairment and that there were also wider considerations of anxiety, panic attacks, low mood, difficulty sleeping that all played into this fact. Simply, the S.E.B. did have sufficient opportunity to rebut those cases and that there is nothing procedural here but that the S.E.B. is coming under pressure from the business community and possibly from its own H.R. (human resources) processes that they simply do not agree with the findings of an impartial tribunal that we have appointed as a States body. If that is the case, should it not be that the S.E.B. should be seeking to bring an amendment to the law as to what can constitute a characteristic under discrimination?

The Bailiff:

That was an extremely long question but we are ...

Deputy M. Tadier:

Thank you, Sir, but others have been indulged this morning.

The Bailiff:

Yes, perhaps I have been overly indulgent, that is true, but also it is beginning worryingly to drill into the details of the case, which is in effect, while it is before the court, sub judice. I think it would be helpful, given it is too late to call back some of the information, in any answer if you would be as succinct as you are able to be.

Deputy M.R. Ferey:

I maintain the position of procedural unfairness and setting a precedent and that is why we are appealing this decision.