

# Ill health claimant's application to postpone hearing denied

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A tribunal will not usually refuse an application to postpone a hearing where one of the parties cannot attend due to ill

health. However, in *Transport for London v O’Cathail*, the Court of Appeal explored the circumstances when it would be fair.

Mr O’Cathail worked for TfL for six months before going on long term sick leave until his dismissal two years later. He brought a disability discrimination claim and a hearing was scheduled, which was postponed due to his ill health. Mr O’Cathail then applied to postpone the re-scheduled hearing. His application was refused by the Tribunal for a number of reasons. In particular, the length of time that had elapsed and the fact that the Tribunal could judge TfL’s evidence against Mr O’Cathail’s witness statement without oral evidence. Another factor was that there would be further wasted costs for all parties and the Tribunal if the hearing was postponed again. In light of these reasons (and others), the Tribunal decided to hear the claim in Mr O’Cathail’s absence.

Although this may appear to be good news to employers, both the Tribunal and the Court of Appeal confirmed this was a “*very rare case*”. It is normally the case that where a party is unable to attend for medical reasons an adjournment will be granted despite the inconvenience.

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