

Long term disability benefits: it all depends on the contract

By [Katherine Anderson](#)

3PB Barristers

ICTS (UK) Limited v VISRAM [2020] EWCA Civ 202

This appeal concerned a provision about long term disability benefit ("LTDB") which formed part of the Claimant's contract of employment. It provided for the employee to receive a Disability Income of 2/3rds of his Base Annual Salary less the State Invalidity Pension should he be absent from, and unable to, work due to sickness or injury for a continuous period of twenty-six weeks or more, which would commence twenty-six weeks after the start of his absence and continue until the earlier date of his "return to work, death or retirement".

The Claimant went on long-term sick leave with depression and work-related stress for almost 2 years until his dismissal in 2014. He won his claims for unfair dismissal and unlawful disability discrimination, and a key issue at the remedy stage was the compensation to be awarded for loss of LTDB. The employer submitted that "return to work" should be interpreted as a return to *any full-time suitable work*, such that LTDB payments would cease at the point at which the Claimant became fit enough to carry out suitable alternative full-time work. The Claimant submitted, and the ET agreed, that "return to work" should be interpreted as a return the Claimant' *original job*, such that LTDB payments would not cease at the point at which the Claimant became fit enough to carry out suitable alternative full-time work. The employer, before the CA, sought to rely on the CA decision in *Jowitt v Pioneer Technology UK Ltd* [2003] ICR 1120 but the CA held that it all depends on the wording of the contract, and in the present case the meaning of the clause had been correctly interpreted by the ET.



Katherine Anderson

Barrister

3PB Barristers

0330 332 2633

Katherine.anderson@3pb.co.uk

3pb.co.uk