



EMPLOYMENT TRIBUNALS

Claimant: Ms Z Dancer

Respondent: HC-One Limited

Heard at: Leeds by CVP

On: 28 March 2025

Before: Employment Judge Maidment

Representation

Claimant: In person

Respondent: Ms L Quigley, Counsel

JUDGMENT

The claimant's application for interim relief is refused.

REASONS

In an application for interim relief, the test is whether it appears to the tribunal that the relevant claim is likely to succeed. This requires the tribunal to carry out a summary assessment on the material available, doing the best it can without hearing evidence and making factual findings. In the case of **Taplin v C Shippam Ltd 1978 ICR 1068**, it was said that the correct test to be applied is whether the claimant has a "pretty good chance of success" at the full hearing. That is not a low bar.

The claimant brings a complaint of automatic unfair dismissal based on her being a whistleblower. On discussion, the claimant identified that she was relying on complaints in her email of 13 December 2024 to a director as being a protected qualifying disclosure. The document, on its face, purports to be an act of whistleblowing, but that in itself is insufficient to make it a protected disclosure. There must be a provision of information tending to show, on the claimant's case here, a breach of health and safety. The communication in fact provides very little

Case No: 6003525/2025 & 6000814/2025

in terms of specific information. The tribunal is likely to be required to consider the overall context of the complaint and other communications previously made by the claimant to the respondent to understand whether sufficient information can be said to have been provided in this case. There is also the question of whether the claimant had a reasonable belief, in the context of her not having herself particular knowledge of health and safety in this industry and relying on information she says she was provided with by the CQC of which the tribunal is unaware at this point in time.

Despite identifying the communication of 13 December 2024 as the sole disclosure to be relied on, the claimant, in her representations, did refer to earlier verbal disclosures. She did not, however, identify those being relied upon. Whilst the grounds of complaint do refer to a range of communications, the tribunal is not in a position to evaluate whether any other communication was likely to amount to a protected qualifying disclosure.

The claimant's greater difficulty is on the question of causation. Given her short length of service, she will bear a burden of proof in terms of the reason or, if more than one, the principal reason for her dismissal.

The claimant does not appear to be raising any matter which might obviously have caused the respondent to be worried or angry or certainly to retaliate by dismissing her. Her case seems more to be that she might have been viewed as a nuisance raising a lot of concerns or repeating the same concerns.

That is against a background of significant evidence of there being concerns about the claimant's behaviour and performance from indeed an early stage in her employment. Those concerns appear to come from a range of sources including people not involved in the claimant's line management or in respect of whom she was raising potential protected disclosures. Concerns arise from July 2024 and are discussed with the claimant in meetings and at probationary reviews. The claimant was invited on 3 December 2024 to her final probation review meeting, prior to her purported protected disclosure of 13 December and in circumstances where, on receipt of that invite, it must have been viewed by the claimant as likely that this would result in her dismissal. Mr Iles will certainly give evidence that he had determined to take that course of action by the time of the invitation. A delay in actioning the dismissal appears to result from periods of annual leave and sickness absence.

The claimant obviously had short service and therefore limited employment protection rights. The question here is not whether the respondent acted reasonably, but whether it dismissed her because it genuinely believed that her behaviour/performance was not satisfactory or because she had raised a protected disclosure. It is likely on the documents before the tribunal that the claimant's behaviour/performance will be found to be the reason for dismissal, not her protected disclosures. Certainly, there is not the required likelihood of the claimant succeeding which would make it appropriate to make an order for interim relief.

Employment Judge Maidment

Date 28 March 2025

Recording and Transcription

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>