EMPLOYMENT TRIBUNALS

Claimant
Mr A Sood

Respondent
ICTS UK and Ireland

Heard at: Norwich (CVP) **On:** 7 August 2025

Before: Employment Judge S Moore (sitting alone)

Appearances
For the Claimant: In person
For the Respondent: Mr M Ramsbottom, Senior Litigation Consultant

JUDGMENT ON INTERIM RELIEF

(1) The application for interim relief is dismissed.

(2) The Respondent's application for an extension of time to present its Response is allowed; its Response dated 8 July 2025 stands as the response to the Claim.

Introduction

1. This is an application for interim relief made under s.128 Employment Rights Act 1996 (ERA) on the basis that the reason (or principal reason) for the Claimant's dismissal is that he made a protected disclosure within the meaning of s.103A ERA.
2. The Respondent's solicitors had prepared a bundle of documents and a skeleton argument, which had been emailed to the Claimant prior to the hearing, however he had not seen them because they had gone into his junk email folder. Accordingly I adjourned for 1 & ¼ hrs to give him a chance to look at them. The Claimant had also sent in a bundle of documents (some of which were the same as those in the Respondent's bundle).
3. There were no witness statements and there was no application for anyone to give oral evidence.

Background

4. The Claim Form was lodged on 15 May 2025. The complaints made were of unfair dismissal, a whistle-blowing claim, for arrears of pay and for holiday pay. The Claimant further submitted an application for interim relief in respect of his claim for automatically unfair dismissal for making a protected disclosure (whistleblowing).
5. The facts asserted in the Claim Form are that the Claimant's employment commenced on 22 April 2025 and was terminated on 9 May 2025 on the grounds that he had failed to pass security vetting.
6. He alleges that the Respondent stated he had failed to respond to vetting requests and that his school had not verified his student status. However this was false, and he had submitted all the required documentation and obtained written confirmation from his school that it had never received a vetting request from the Respondent or any third-party vetting agency, which he provided to the Respondent. Nevertheless, the Respondent terminated his employment without a proper investigation, without considering his evidence and without a hearing or opportunity to appeal. He further stated that he learned that others in his intake were also dismissed with identical reasoning.
7. The Claimant said he had since submitted a Data Subject Access Request and reported what he believed to be systemic mishandling of vetting as a whistleblowing concern to the Civil Aviation Authority.
8. The Respondent was notified of the claim on 2 June 2025 and informed that its Response had to be lodged by 30 June 2025.
9. On 19 June 2025 the parties were informed that the application for Interim Relief would be heard on 7 August 2025.
10. On 30 June 2025 the Respondent made an application for an extension of time to present its Response on the grounds that it had an arguable defence to the claim and that it had become apparent that further employees of the Respondent needed to be interviewed before a substantive response could be finalized. An extension was requested until 7 July 2025 (in fact the date in the application was given as 7 June 2025, but this was plainly a typographical error).
11. The Respondent subsequently submitted its Response on 8 July 2025. On the same date its representatives made a further application for an extension of time for presenting the Response on the basis that further clarification had been required from the Respondent's witnesses as regards what appeared to have been an administrative error in the processing of the Claimant's references and that the only person who could confirm specific details to complete the response was not in the office on Friday 4 July or Monday 7 July 2025.
12. The parties were informed that that application would be dealt with at the hearing on 7 August 2025 (i.e. today).
13. In its response the Respondent denies that the Claimant had the necessary length of service to bring a claim for unfair dismissal.
14. As regards the claim for automatic unfair dismissal, the Respondent states that the Claimant has not set out the details of any protected disclosures, still less

any protected disclosures made prior to his dismissal and asserts that the reason for the Claimant's dismissal was its mistaken belief he had not completed the vetting checks.

15. As regards the vetting procedures the Respondent says the Claimant was informed on 28 February 2025 he had passed the interview, and they would be proceeding with the vetting procedure. The Claimant's school, Greenford High School, was written to on 5 March 2025 to request a reference, however the response received only confirmed the attendance of the Claimant at the school until 23 July 2024.

16. The Claimant's induction day was arranged for 17 April 2025.

17. The same day, 17 April 2025, an office administrator for the Respondent (Mrs Dhiman) wrote to the Claimant to tell him that since there was a gap of more than 28 days in his employment history (from 24 July 2024 to 20 April 2025) he would need to bring a friend to the induction day so that the Respondent could validate the gap in the Claimant's employment.

18. The Claimant attended the induction day on 17 April 2025 but did not bring a friend with them, so Mrs Dhiman wrote to the Claimant on 28 April 2025 stating that he had failed to bring someone to attest to the gap in his employment history. A Mrs Koya subsequently attended the office to provide a reference in respect of that gap.

19. On 8 May 2025 the Respondent determined that too many employees had been onboarded in the current intake and Mrs Dhiman undertook a review as regards which employees had not completed the relevant vetting checks and whose contracts could be terminated. In that review Mrs Dhiman considered the dates given in the Claimant's gap reference (provided by Mrs Koya) were incorrect and the Claimant's employment was terminated on 9 May 2025.

20. Upon further review by the Respondent, it was discovered that the dates given in Mrs Koya's reference had been uploaded incorrectly and that the Claimant had provided a suitable reference for the relevant period. However, since the purpose of the review had been to reduce the size of the intake, the decision to dismiss was maintained.

21. The Response further maintains that the Claimant has been paid his holiday pay and wages due.

Extension of Time for Presenting Response

22. I am satisfied that the time for presenting the Response should be extended pursuant to rule 21 of the Employment Tribunal Rules of Procedure 2024. The Respondent initially applied for a 7-day extension, and the Response was lodged within a further 24 hours of that requested extension, with a plausible and reasonable explanation as to why the initial extension had been needed and a further delay of 24 hours had occurred. Further, the Respondent appears to have a robust and arguable defence to the claims and it is in the interests of justice for that defence to be heard. Finally, the delay/extension is minimal and has not caused any prejudice to the Claimant or the progression of the case.

Application for Interim Relief

Legal Principles

23. The test for succeeding in an application for interim relief is whether it appears to the tribunal that it is likely that on determining the complaint the tribunal will find that the reason or principal reason for which the claimant was selected for dismissal is (so far as is relevant to this case) that he made a protected disclosure.

24. When considering the 'likelihood' of the claimant succeeding at tribunal, the correct test to be applied is whether he or she has a 'pretty good chance of success' at the full hearing (*Taplin v C Shippam Ltd 1978 ICR 1068, EAT*).

25. In *Ministry of Justice v Sarfraz 2011 IRLR 562, EAT*, Mr Justice Underhill stated 'likely' does not mean simply 'more likely than not' but connotes a significantly higher degree of likelihood, i.e. 'something nearer to certainty than mere probability'. He noted that it was understandable that Mr Justice Slynn in *Taplin* declined to express that higher degree in percentage terms, 'since numbers can convey a spurious impression of precision in what is inevitably an exercise depending on the tribunal's impression'.

26. In that latter respect, the EAT in *London City Airport Ltd v Chacko 2013 IRLR 610, EAT*, stated that the tribunal is required to carry out an 'expeditious summary assessment' as to how the matter appears on the material available, doing the best it can with the untested evidence advanced by each party. This, it observed, necessarily involves a far less detailed scrutiny of the parties' cases than will ultimately be undertaken at the full hearing. The basic task and function is to make 'a broad assessment on the material available to try to give the tribunal a feel and to make a prediction about what is likely to happen at the eventual hearing before a full tribunal'.

27. Further in *Parsons v Airbus UKEAT/0023/16/JOJ 4 March 2016,* the EAT citing *Chacko*, stated that a "good arguable case" is not enough. The Employment Judge was required to make a summary assessment on the basis of the material then before them as to whether the Claimant had a pretty good chance of succeeding on the relevant claim. In giving reasons for that decision it was sufficient for the Judge to indicate the essential "gist" of their reasoning, because they were not making a final determination and their decision would inevitably be based to an extent on impression and therefore not susceptible to detailed reasoning, and as far as possible it was better not to say anything which might pre-judge the final determination of the matter.

28. As regards the meaning of "protected disclosure", section 43A Employment Rights Act 1996 (ERA) says this means a "qualifying disclosure" as defined by section 43B which is made by a worker in accordance with any of sections 43C to 43H.

29. Section 43B provides that a "qualifying disclosure" means any disclosure of information, which, in the reasonable belief of the worker making the disclosure,

is made in the public interest and tends to show one or more of the matters set out in ss.43B(1)(a)-(f).

30. Section 43C provides that a qualifying disclosure is made in accordance with this section if the disclosure is made to his employer.

31. In *Cavendish Munro Professional Risks Management Ltd v Geduld [2010] ICR 325*, the EAT stated that the ordinary meaning of providing 'information' is 'conveying facts' and that a mere allegation which did not convey any facts did not amount to a disclosure of information and could not be a protected disclosure. It posited a hypothetical example in the context of a hospital ward. If a hospital employee were to say 'the wards have not been cleaned for the past two weeks' or 'yesterday, sharps were left lying around', this would convey information. But an employee who simply stated 'you are not complying with health and safety requirements' would merely be making an allegation.

32. However, in *Kilraine v Wandsworth LBC [2018] ICR 1850*, the Court of Appeal held that tribunals should not approach the matter as if there is a rigid distinction between information and allegations. In order for a disclosure to be a 'qualifying disclosure' within the meaning of s.43B(1) it had to have sufficient factual content and specificity so that a disclosure which is general and devoid of specific factual content cannot be said to be a disclosure of information tending to show a relevant failure. Nevertheless, 'information' in the context of s.43B is capable of covering statements that might also be characterised as allegations since very often information and allegation are intertwined.

Conclusions

33. The only matters pleaded in the Claim Form that are might be potentially capable of amounting to protected disclosures are, first, that the Claimant made a Subject Access Request, and, secondly, that he says he made complaints to the regulatory authorities. There is no other information in the Claim Form to suggest any other protected act.

34. However both of these potential disclosures were made *after* the Claimant's dismissal on 9 May 2025. This is clear from the face of the Claim Form and also from the Subject Access Request itself, dated 16 May 2025, which is in the bundle. There is no evidence (or even an assertion) of a complaint or disclosure of information to anyone prior to 9 May 2025.

35. I note the Claimant's bundle of documents also contains an email to the Respondent dated 12 May 2025, responding to and challenging the reasons for his dismissal, and attaching a letter from his school stating the Respondent never sent it a vetting request. However, even if this email might also be construed as a potential protected disclosure, this again was after the Claimant's dismissal on 9 May 2025.

36. Indeed the Claimant appears to say in the Claim Form that he made the Subject Access Request and complaints to the regulatory authorities because of what he perceived to be the mishandling of the vetting procedure as it was applied to him (and others), which is obviously very different from saying that he was dismissed because he made those (possible) disclosures. That is to say,

the possible disclosures appear to have come about because of his dismissal, rather than being the reason for his dismissal.

37. Accordingly, there is nothing before me to suggest that the reason (or principal reason) the Claimant was dismissed was that he had made a protected disclosure.

38. Indeed, to the contrary, there is an email in the bundle dated 9 May 2025 from Gagan Bejaj to "Joanne/Sandeep/Manpreet" stating: "Please note, the below have failed their vetting process. They fall within their six-month probation period. All have been logged with Peninsula and letters to be posted out today; contracts terminated with immediate effect". The Claimant's name is included in a list of 26 names contained in that email. This further suggests that the reason the Claimant was dismissed was because the Respondent believed he had failed the vetting process (along with others).

39. I am therefore not satisfied that it is likely that the Tribunal will find that the reason or principal reason for the Claimant's dismissal is that he made a protected disclosure(s).

40. Clearly what appears to have happened in this case is very regrettable and it is not surprising the Claimant has been confused, angry and upset – particularly since his school has told him that it was never even contacted by the Respondent. However, the fact the Claimant has suffered emotional distress and financial hardship as a result of what appears to have been the Respondent's incompetence, is not a basis for granting interim relief.

41. It follows that the claim for interim relief is dismissed.

Approved By:

Employment Judge S Moore
Date:
7 August 2025

Sent to the parties on:
10 September 2025

For the Tribunal:

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