



EMPLOYMENT TRIBUNALS

Claimant: Mr M Sheerin

Respondent: Airvending Limited

24 September 2025

Before: Employment Judge Shepherd

Appearances:

For the Claimant: In person

For the Respondent: Mr Bunting, counsel

JUDGMENT ON THE CLAIMANT'S APPLICATION FOR INTERIM RELIEF

The claimant's application for interim relief is refused.

REASONS

1. The claimant represented himself and the respondent was represented by Mr Bunting.
2. I was provided with a bundle of documents consisting of 348 pages. I considered those documents to which I was referred by the parties. I also had sight of written statements from David Goulden, Chief Financial Officer and Mark Bowden.
3. This was an application by the claimant for an order for interim relief on the basis of a claim for a dismissal by reason of making a protected disclosure within the meaning of section 43B of the Employment Rights Act 1996.

4. The claim for unfair dismissal was presented by the claimant on 3 September 2025. The claimant had already commenced an earlier set of proceedings against the respondent under claim number 6020941/2024. The claims were the subject of a Preliminary Hearing on 9 September 2025. A final hearing is listed to take place over 10 days commencing on 22 June 2026. The complaints within those proceedings are for Direct Disability Discrimination, Harassment, Victimisation and Failure to make Reasonable Adjustments. The claims have been before the Tribunal for a significant period of time.

5. The claimant applies for interim relief under section 128 of the Employment Rights Act 1996.

6. I have to decide whether it appears to me likely that, on determining the complaint, the claimant will succeed in establishing that the reason (or if more than one the principal reason) for the dismissal was on grounds related to making a protected disclosure under section 103A and 100 Health and Safety.

7. The requirement to decide whether it is likely that the claimant will succeed at a full hearing of the unfair dismissal complaint pursuant to section 103A does not require me to make any findings of fact and I must make the decision as to the likelihood of the claimant's success at the full hearing on the material before me.

8. I have considered the claim form and grounds of complaint. I have considered the witness statements provided by David Goulden and Mark Bowen. I Have also considered the documents to which I was referred by the parties and the submissions from the claimant and Mr Bunting.

9. The claimant has today provided what he alleges is the protected disclosure. This is an email dated 1 August 2024 which refers to issues relating to pressures put on himself and a number of other engineers. The claimant complained about the respondent's behaviour which he said could easily be construed as constructive dismissal, disability discrimination and bullying at an employment tribunal. I am not satisfied that it can be determined that this was a qualifying disclosure under section 43B without hearing substantive evidence which may be relevant to the issues to be heard in the earlier proceedings in the 10 day hearing listed in June and July 2026.

10. The case summary in respect of the 2024 proceedings refers to the respondent denying all claims of unfair dismissal, discrimination, harassment and failure to make reasonable adjustments. There are issues with regard to performance concerns and adjustments to the claimant's workload.

11. The basic task I have to decide is to make a broad summary assessment on the material available doing the best I can with the untested evidence from both parties to enable me to make a prediction about what is likely to happen at the eventual hearing before a full Tribunal.

12. When considering the "likelihood" of the claimant succeeding at the Tribunal, the test to be applied is whether he has a "pretty good chance of success". In the case of *Taplin v C Shiphams Ltd* 1978 ICR 1068 the EAT expressly ruled out possible alternative tests such as "a real possibility" or "reasonable prospect" of success. The

burden of proof in an interim relief application is intended to be greater than that at the full Tribunal where the Tribunal need only be satisfied on the balance of probabilities that the claimant has made out his case.

13. The respondent has not yet presented a response to the claim of unfair dismissal pursuant to section 103A. It was not appropriate for me to hear detailed oral evidence and for the witnesses to be subjected to detailed cross examination.

14. David Goulden, the dismissing officer, states that the dismissal had absolutely nothing to do with any alleged protected disclosure by the claimant.

15. Considering all the material before me and the submissions made by the claimant and Mr Bunting I am unable to conclude that, at the final hearing on the merits it is likely that the Tribunal will find that the reason for dismissal was the claimant had made a protected disclosure.

16. The claimant may succeed in establishing that the reason for his dismissal was that he had made a protected disclosure but I cannot conclude that this result is “pretty likely” to be the outcome at the final hearing on the merits. The respondent will argue that, even if it is established that there was a disclosure, there is a factual dispute about whether the claimant had a reasonable belief that it was in the public interest. The issues identified in respect of the 2024 case and the case summary set out by Employment Judge Rakhim show that the Employment Judge’s understanding was that there were a number of allegations of issues that predated the disclosure.

17. The claimant’s case is that there is an unbroken chain of causation leading directly from the protected disclosure to the claimant’s dismissal. The letter of dismissal does not show this. From the information I have considered it appears that there were multiple issues leading to the disciplinary procedure, written warning and the dismissal. The reasons for the disciplinary action and dismissal will need to be considered at the final hearing. The case summary in respect of the 2024 proceedings referred to the respondent denying all claims of unfair dismissal, discrimination, harassment and failure to make reasonable adjustments. There are issues with regard to performance concerns and adjustments to the claimant’s workload.

18. It will need to be shown that the reason for dismissal given by David Goulden was not true and that the sole or principal reason was that the claimant had made a protected disclosure. That can only be shown by consideration of all the evidence at the substantive hearing.

19. The claimant may believe that his dismissal was for the reason or the principal reason of his alleged protected disclosure. He may succeed at the substantive hearing but there is nothing within the material available to me or the witness statements, which have not been subject to challenge or interrogation, that would enable me to conclude that it is pretty likely that the claim of dismissal by reason or principal reason of his alleged protected disclosure will succeed. There are a substantial number of disputes about factual issues that will need to be determined by the Tribunal at the full hearing.

20. In all the circumstances, the claimant’s application for interim relief is refused.

Case Number: 6032503/2025

Employment Judge Shepherd

24 September 2025