EMPLOYMENT TRIBUNALS

Claimant: Mr A Lawrence

Respondent: Huntapac Produce Limited

Heard at: Manchester **On:** 30 July 2025

Before: Employment Judge Phil Allen

REPRESENTATION:

Claimant: In person
Respondent: Ms L Amartey, counsel

INTERIM RELIEF JUDGMENT

The judgment of the Tribunal is that:

1. It does not appear that it is likely that in determining the complaint the Tribunal will find that the principal reason for the dismissal will be because the claimant made one or more protected disclosures. The application for interim relief is refused.

REASONS

Procedure

1. This was an application for interim relief.

2. The claimant represented himself at the hearing. Ms Amartey, counsel, represented the respondent.

3. The hearing was conducted in person at Manchester Employment Tribunal.

4. The respondent provided a bundle of documents. The claimant did not provide any documents prior to the hearing. The claimant provided some additional documents towards the end of the hearing. The claimant criticised the respondent's bundle and said that it omitted important documents, being all his timesheets. At 2.16 pm, shortly before I was due to return and tell the parties my decision at 2.30 pm, the claimant provided further documents by email. Exceptionally and even though I had told the claimant after the end of submissions that it was too late to

provide further documents, I looked at those documents before this decision (they were all timesheets).

5. A witness statement was provided by the respondent prepared by Joanne Cleece, Head of Transport. In accordance with rule 94, I did not hear oral evidence.

6. The respondent's counsel provided a note on the law.

7. At the start of the hearing the claimant declined to attend the hearing because I was the person hearing it. I delayed the start of the hearing to give him time to decide whether he wished to attend. I considered that to be an application to recuse myself. I heard what the respondent's representative had to say about the application. I decided that I would not recuse myself. In summary, I decided that it is not for the parties to choose the Judge who hears their case. I decided that the fact that I had previously conducted a hearing in a different case at which I identified that the claimant had not complied with the terms of an unless order which had been issued and that his claim was accordingly dismissed, was not sufficient reason for me to recuse myself from hearing this one. I informed those in attendance of my decision. The claimant attended the hearing immediately after I had made that decision and remained in attendance thereafter.

8. Each of the parties was given the opportunity to make submissions. I heard what the claimant wished to say. I then heard from the respondent's representative and listened to what she wished to say. The claimant interrupted the respondent's counsel repeatedly throughout her submissions. I asked him on a number of occasions not to do so. At one point his interruptions were so frequent that I was concerned that a fair hearing was not going to be possible. The frequency of the interruptions decreased after I raised that issue (albeit they still continued). The claimant told me that he had to interrupt because of the way that his brain worked, he was unable not to do so. The respondent was represented by an experienced barrister, and I was satisfied that she had the opportunity to explain the respondent's case.

9. After the respondent's oral submissions, the claimant was given the opportunity to provide the additional documents he wished to and to say anything he wanted about those documents. He was given the opportunity to respond to what the respondent's counsel had said. The respondent's counsel responded briefly about the new documents. I asked both parties about a particular paragraph in one of the pages in the bundle.

10. I adjourned to consider my decision. After doing so and after taking time for lunch, I provided the parties with my decision and the reasons for it. I said that I thought the claimant would want to be sent written reasons and he confirmed that he would. Accordingly, these written reasons have been provided.

11. I made some adjustments for the claimant based upon what was identified in an intermediary's report prepared in other proceedings. A break of fifteen minutes was taken after each forty-five minutes of hearing (when the claimant was in attendance). The lights were left off in the hearing room. A separate room for the claimant was arranged for him in which he could wait. The claimant stood up and moved around during the hearing. I asked question and gave my reasons in short

sentences. The claimant also burped loudly on occasions and interrupted the respondent's counsel repeatedly. The claimant asked that all four of the attendees for the respondent should not type at the same time, and two of them stopped doing so. The claimant did at one stage raise the fact that no intermediary had been arranged to accompany him at the hearing. After doing so, he agreed that it was too late to arrange one and the hearing should go ahead without one.

Facts

12. The claimant was employed by the respondent as an LGV driver from 19 April 2024 until he resigned on 2 June 2025. He entered his claim form on 9 June 2025. He claims that he was automatically unfairly dismissed. He says he was dismissed for making protected disclosures. He has applied for interim relief. Attached to the claim form was a seventeen-page document. It explained in detail the facts upon which the claimant relies. It does not set out clearly some of the legal things which will need to be established. This hearing has taken place before the date when the response form is due.

13. In summary, the claimant alleges that he made protected disclosures about certain things. He objected to needing to download an App onto his personal phone. He says disciplinary action was threatened for those who did not do so. He objected to being required to contact the respondent to confirm a day's work ahead of the day. He says that interrupted his required rest periods. He says he had usual routes. He points, in particular, to the consistency with which he delivered to Tesco at Hinckley on a Friday. He says those routes were changed when he raised issues. He says he was asked to drive a particular vehicle (which he had difficulties driving) when he raised issues. The respondent disputes that was the case.

14. The claimant resigned in an email sent on 2 June 2025. I considered all that was said in that email. Of particular importance was what the claimant said in that email at paragraph 6 (page 247 of the bundle):

> "*The repeated interruptions during my legally protected rest periods and the work apps on personal devices with a threat of disciplinary procedures constitute a fundamental breach of the implied term of trust and confidence of an employment contract, rendering continued employment untenable"*

15. That is the clearest statement I have seen of the claimant's case. It is the clearest statement of exactly why he resigned. When I asked the claimant, he said it was not just that. He referred to the changes to his routes and work.

16. The respondent says that an employee can be asked to undertake different routes and drive different vehicles as part of their contract.

The Law

17. This is an interim relief application. The key law is section 129 of the Employment Rights Act 1996. The test is whether it is likely that that the claimant's claim will succeed. The claim brought is automatic unfair dismissal. The key question is: was the principal reason for the claimant's dismissal because he made a protected disclosure? That is section 103A of the Employment Rights Act 1996.

18. The claimant resigned. He has a constructive dismissal claim. For his claim to succeed, the respondent must have fundamentally breached the claimant's contract. He must have resigned in response. A key question is: was the principal reason for the breach that the claimant made a protected disclosure?

19. The test for my decision, is whether the claimant's claim is likely to succeed. I must consider all elements of the claim. I must take account of all the things which must be established at the final hearing. Some of those things include the following questions. Was there a disclosure of information? Did it meet the legal requirements to be a protected disclosure? Did the claimant believe that the disclosure was in the public interest? Was that belief reasonable? Was there a fundamental breach of contract by the company? Was that breach because the claimant had made a disclosure? Did the claimant resign as a result?

20. I must carry out an expeditious summary assessment. That is done on the material available. I must do the best I can. The evidence is untested. The final hearing will look at evidence far more closely. I do not make findings of fact. I must decide the likelihood of success. That is based on a broad assessment of the material available.

21. The test is - likely to succeed. Whether the claimant has a pretty good chance of success at the final hearing. It requires something nearer to certainty than mere probability. The test is tougher than that which will be applied by the Tribunal at the final hearing.

Conclusions – applying the Law to the Facts

22. I have not found that the claimant is likely to succeed in his claim. He may do. It needs a final hearing to decide. I have made a decision based on an expeditious summary of the material before me. I have decided that the claimant is not likely to succeed. He does not have a pretty good chance of success. He might succeed.

23. It is possible that the claimant made a number of protected disclosures. To prove that something is a protected disclosure requires the application of a complicated test. The claimant must show that he disclosed information. Making an allegation is not enough. In particular, I do not think that it is likely that the claimant will show that he reasonably believed that any disclosures were made in the public interest. In his submissions, the claimant referred to other drivers as being the public. He might show that he did believe that the disclosures were in the public interest, and that belief was reasonable. I am not persuaded that it is likely that he will do so. The respondent says any information disclosed was evidentially part of an employer and employee dispute. That appears correct.

24. This is a constructive dismissal claim. To succeed, the respondent must have fundamentally breached the claimant's contract of employment. They must have done so because of a protected disclosure. What is said at paragraph six of the resignation email is that the fundamental breaches were the respondent doing the things about which the disclosures were made. The claimant will not succeed in his claim if he resigned because the respondent continued to do the things he complained about. If he resigned because he was told to use the App, that is not enough. If he resigned because he was contacted outside his shifts, that is not

enough. If he resigned because he was not given work after he did not make contact outside his shift (because he did not make contact outside his shift), that is not enough. He must show that the respondent fundamentally breached his contract because he made protected disclosures. That is, it did so because of his disclosures, not because it continued to require him to do the same thing(s). I do not find that it is likely that the claimant will show that the respondent fundamentally breached his contract because of disclosures. He may do. I do not find that he has a pretty good chance of doing so and showing that is why he resigned, focussing particularly on what he said in his resignation email.

25. The respondent says that requiring the claimant to do different routes or drive different vehicles is something it can do under the contract. It says that is the nature of logistics, which are variable and responsive to demand. It also says that the claimant drove different routes and vehicles before any alleged disclosure was made. The claimant might succeed in arguing that specific decisions made breached the duty of trust and confidence if they were made deliberately for or about him. There is clearly a dispute between the parties about the previous consistency of routes/work, when it changed, and why it changed. That will need to be decided on the evidence. It cannot be said based on the material before me that the claimant's argument is likely to succeed. It might.

26. The claimant downloaded the App during the trial period and used it once. He then refused to do so again. The respondent denies that any action was taken against the claimant for refusing to use the App. I have seen no evidence that action was taken. The claimant has provided a document which shows that disciplinary action was threatened generally. What occurred needs to be decided when evidence is heard.

27. The respondent denies that legal obligations were breached when the claimant was contacted between shifts. It says the claimant could not have thought they were or could not reasonably have done so. They refer to the hours between shifts and the time before contact was made. In his resignation email, the claimant said he intends to take this case forward as a strategic test case on the right to disconnect for all employees. He relies upon the decision of a Court in Ireland. The claimant may be right that it raises interesting issues. It may be that the claimant is able to argue his case as a test case. It will need to be determined on the facts. The relevant facts will need to be decided. They will need to be applied to an automatic unfair constructive dismissal claim. It might be that the issue is what he believed and whether than belief was reasonable (rather than whether there was a breach at all). It cannot be said that the claimant has a pretty good chance of succeeding in his claim.

28. The respondent argued that the claimant's refusal to provide further particulars of his claim before this hearing, indicated that he was not likely to succeed. I don't know whether it would have been the case, but it is possible that the claimant's arguments might have been stronger if his case (applying the law) had been more clearly set out in his claim form. However, he is an unrepresented claimant. He has impairments. I have tried my best to understand his claim and how it may/will be argued. He will need to explain his claim in far more detail before the final hearing. I have not considered his failure to do so this far, to be relevant to my decision.

29. The respondent made an unusual argument that the claimant's conduct of this claim and his previous claim was such that he was not likely to succeed. I have not considered that to be a factor I should take into account in making my decision. I hope that the claimant is able to avoid using foul and abusive language, as he did for much of this hearing. There will need to be a further ground rules hearing. There may need to be an intermediary appointed. They may attend future hearings. I have not taken account of those challenges when deciding whether the claimant's claim is likely to succeed.

30. As I have explained, by its nature an interim relief Judgment is a brief one based upon limited scrutiny of evidence which has not been tested. The Tribunal who conducts the final hearing will undertake a far more detailed consideration of the evidence. My decision does not mean that the claimant will not succeed in his claim, but applying the test required of me, he has not succeeded in his interim relief application.

Employment Judge Phil Allen

31 July 2025

JUDGMENT AND REASONS SENT TO THE PARTIES ON

17 September 2025

FOR THE TRIBUNAL OFFICE