



EMPLOYMENT TRIBUNALS

Claimant: Mr T De Carvalho Ferreira

Respondents: Magic Life Limited (1)
Simon Oliver (2)
Pawel Gawronski (3)
Paula Rola (4)

Heard at: Reading (by CVP)

On: 1 December 2025

Before: Employment Judge Anstis

Representation:

Claimant: Ms U Mahaka

Respondent: Miss M Martin (counsel)

REASONS

INTRODUCTION

1. The claimant's representative made a request for written reasons on 4 December 2025. That was before the relevant judgment and order had been promulgated. I have today prepared these written reasons which are intended to address both the order and judgment made at the hearing on 1 December 2025.
2. In her skeleton argument for this hearing Miss Martin starts by saying "*the procedural history of this claim is complicated*" and that "*there are a number of outstanding issues*". That is undoubtedly the case, although today my focus is on the questions posed for this hearing by EJ Quill in a letter of 11 November 2025, that is:
 - a. whether or not the claimant has permission to amend the claim as set out in the 9 September and 20 October emails,
 - b. if so, whether a valid application for interim relief has been made to the tribunal, and
 - c. if so, whether interim relief should be granted.
3. I will try and set out the procedural history as briefly as I can for the purposes of this decision.

4. The claimant submitted his claim on 5 August 2025. It references a number of claims, the scope of which is not yet clear. At box 8.1 he identifies both claims of unfair dismissal and in respect of whistleblowing. Later he identifies claims of constructive and automatically unfair dismissal, citing s103A in respect of whistleblowing. But at the same time it is clear from his claim form that he had not at that time been dismissed, or resigned, and he was not under notice of dismissal. The claim form gives no termination date and says "*the claimant remains employed*". As Ms Mahaka put it in her skeleton argument, "*at that time, the claimant remained suspended, anticipating retaliatory dismissal*". This original claim contained no claim for interim relief, and any claim of unfair dismissal or automatic unfair dismissal arising in this original claim could not succeed as the claimant by his own admission had not resigned and was not dismissed or under notice of dismissal at that time.
5. The original claim form says "*full particulars of claim to follow by separate submission*".
6. A document titled "*Particulars of claim*" was submitted by the claimant on 21 August 2025. The status of that document and the matters contained in it (including the question of additional respondents) remain to be determined and are not an issue at this hearing. These particulars of claim say that at the time they were submitted the "*claimant remains employed*". They do not contain an application for interim relief.
7. On 9 September 2025 the claimant submitted a lengthy "*application for interim relief*". It is founded on a dismissal with immediate effect on 2 September 2025. This document alleges that his dismissal on 2 September 2025 was automatically unfair as being by reason of whistleblowing (protected disclosures).
8. On 6 October 2025 EJ Quill wrote to the parties saying "*to the extent that the email, with attachments, dated 9 September 2025 ... purports to be an interim relief application, that claim is rejected*". This was on the basis that it did not comply with rules 9 or 10. EJ Quill provided that an application for reconsideration of this rejection could be made under rule 14.
9. On 20 October 2025 the claimant wrote responding to that rejection, and that prompted EJ Quill to list this hearing.
10. The claimant's application for interim relief is somewhat complicated by his wish to put forward as his "*primary argument*" that in fact he has not been dismissed, and his purported dismissal is a nullity. If he remains employed then of course the jurisdiction to order interim relief would not arise. The position was further complicated during this hearing by Ms Mahaka suggesting that he may have been dismissed earlier than 2 September 2025, although she said that in the absence of documents such as the P45 from the respondent the claimant was not able to say what that earlier date was. If either his dismissal was a nullity or he was dismissed earlier than 2 September 2025 then I do not see how interim relief could be ordered. For the purposes of today I have proceeded on the basis that the effective date of termination of the claimant's employment was 2

September 2025, as that is the only basis on which his application could succeed.

11. Finally at this stage I note that in her skeleton argument submitted during the hearing Ms Mahaka invited me to strike out the respondent's skeleton argument. I do not consider that circumstances in which I should strike out the respondent's skeleton argument have arisen in this case, and I refuse the application.

THE FIRST QUESTION

12. The first matter to be determined is "*whether or not the claimant has permission to amend the claim as set out in the 9 September and 20 October emails*".
13. That begs the question as to what, if any, application to amend the claim is contained in the 9 September and 20 October emails.
14. The claimant accepted that there was no express application to amend the claim in either email. The most that could be said by way of any new claim was that the claim of automatic unfair dismissal was now founded on an actual dismissal rather than an anticipated dismissal. To the extent there was an application to amend that went beyond this it was contained in the "*particulars of claim*", not the 9 September and 20 October emails.
15. Miss Martin took the view (and I agree) that any application for interim relief is simply that – an application made in proceedings. While it would conventionally be contained in the claim form, it was not a matter of pleading and an application for interim relief made after submission of a relevant claim of automatic unfair dismissal was to be treated as an application made in proceedings, rather than an application to amend a claim. As she puts it "*The Claimant does not need permission to amend the claim in order to make an application for interim relief. An application for interim relief is exactly that: an application. It does not need to be set out as part of the formal pleadings.*"
16. But Miss Martin continues: "*the Claimant does need permission to amend the claim to bring a claim for automatic unfair dismissal on the grounds of a protected disclosure*". She says:
 - a. *Currently, the Claimant has not presented such a claim. Any such claim mentioned in the ET1 was a premature claim, brought at a time long before the Claimant was dismissed.*
 - b. *Unless and until permission to amend the claim has been granted, the Claimant is not permitted to make an application for interim relief ...*

and

"The Claimant's emails of 9 September and 20 October do not mention an application to amend to include a claim of s.103A automatic unfair dismissal. However, it is assumed that the Claimant would like to make

such an application because, without it, any application for interim relief cannot be made.

The Tribunal will, at some point, need to determine if the Claimant should be granted permission to amend the claim to include a s.103A claim. The Respondent submits that the Tribunal does not need to determine the issue at this stage ...”

17. At least part of Miss Martin’s view that I should not determine any question of amendment is based on her view that *“the claimant’s emails of 9 September and 20 October run to circa 170 pages and potentially seek to add significantly more to the claim than just a s103A issue.”* In fact the claimant confirmed in this hearing that the only thing that the emails of 9 September and 20 October sought to add to the claim was a s103A claim based on his dismissal on 2 September. The *“particulars of claim”* may seek to add more, but that is not a matter to be decided today. Likewise the email of 9 September makes applications that go further than amendment or interim relief, but those are not to be dealt with today.
18. The application of 9 September 2025 was made well within time for a fresh claim so I am almost bound to allow it. On consideration, Miss Martin did not oppose it, so the application to amend by the addition of a claim that the claimant’s dismissal on 2 September 2025 was an automatically unfair dismissal under s103A is granted. The amendment I allow is limited to a claim of automatic unfair dismissal under s103A. No application to amend has been made or granted in respect of an “ordinary” unfair dismissal under s98.
19. The answer to the first question is therefore that the claimant has permission to amend his claim to include a claim that his dismissal on 2 September 2025 was automatically unfair under s103A. This is without prejudice to any decision that may later need to be made in respect of the original scope of the claim and the status of the later particulars of claim.
20. If it remains the claimant’s position on further consideration that his employment continues, or that he was dismissed at an earlier date, then this may involve withdrawal of parts of his claim or a further application to amend, but that is a matter for the claimant.

THE SECOND QUESTION

21. The second question is *“whether a valid application for interim relief has been made to the tribunal”*.
22. Interim relief is governed by s128 and s129 of the Employment Rights Act 1996.
23. Section 128 provides two pre-conditions for an interim relief application:
 - “(1) *An employee who presents a claim to an employment tribunal that he has been unfairly dismissed and ... that the reason (or if more than one, the principal reason) for the dismissal is one ...*

specified in ... section 103A ... may apply to the tribunal for interim relief.

- (2) *The tribunal shall not entertain an application for interim relief unless it is presented to the tribunal before the end of the period of seven days immediately following the effective date of termination (whether before, on or after that date)."*

24. Miss Martin draws from that two conditions: first, that a claim has been presented alleging unfair dismissal under s103A. That entitles a claimant to apply to the tribunal for interim relief, and that application must be made no later than seven days after the effective date of termination. She asserts that the first element must precede or coincide with the second. It cannot be the other way around. An application for interim relief may be presented with or after a claim of automatic unfair dismissal, provided it is submitted before the end of the period of seven days following the EDT. But what cannot happen is an application for interim relief preceding the presentation of a claim of automatic unfair dismissal. In principle I accept that is a correct reading of s128(1) and (2).
25. Interim relief is to be granted where (s129(1)) *"on hearing an employee's application for interim relief it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find that the reason (or if more than one the principal reason) for the dismissal is one of those specified in section 103A."*
26. The *"complaint to which the application relates"* is the claimant's dismissal on 2 September 2025. There is no suggestion that the interim relief application is made in relation to any other dismissal. The dismissal on 2 September 2025 is not a matter contained in the original claim form because, of course, it had not occurred at that time. The only relevant dismissal is one on 2 September 2025.
27. Miss Martin says, correctly:

"An amendment only becomes effective once the Tribunal grants permission for the amendment. Simply making the application does not change the claim.

Amendments to pleadings in the Tribunal which introduce new claims or new causes of action take effect for the purposes of limitation at the time permission is given to amend.

There is no doctrine of 'relation back' (Galilee v The Commissioner of Police of the Metropolis UKEAT/0207/16/RN at §109a)."

28. Based on this, she says:

"If the Claimant is granted permission today to amend his claim to include a claim for automatic unfair dismissal, the relevant date for limitation purposes is today's date. That is the date upon which the Claimant 'presents' a claim for automatic unfair dismissal.

The Claimant can now, and only now, apply for interim relief because it is the first time that he meets the requirements within s.128 ERA 1996.

However, the deadline for making an application for interim relief is 7 days from the effective date of termination ... The Claimant is well past the deadline.

The Tribunal does not have any jurisdiction to extend the time limit for an interim relief application."

29. I have given some thought to this. I accept that "*presentation of a claim*" is a prerequisite for an application for interim relief. I also accept that where, as in this case, there is an application to amend, it only takes effect when granted. Does that mean that in these circumstances the unfair dismissal claim added by amendment is taken to be "*presented*" today, or when originally submitted?
30. Not without some hesitation, I accept Miss Martin's argument. The difficulty is that with an original claim it is always taken as "*presented*" at the point at which it was submitted to the tribunal, regardless of the point at which it is actually processed or "*accepted*" by the tribunal. But it seems to me to be correct to regard the amendment point as different. Presentation and acceptance of claims is dealt with by the tribunal as essentially an administrative matter, with a bare minimum of gatekeeping involving referral to a judge in limited circumstances. The position is different for an amendment. An application for amendment is of no consequence unless or until granted, at which point it takes effect from the date of the grant. In those circumstances I regard it as proper to consider a claim of automatic unfair dismissal added by amendment, such as this one, to be "*presented*" at the time the amendment was granted, rather than at the time the application to amend was made. In this case the grant of the amendment post-dates the application for interim relief.
31. It is necessary for the automatic unfair dismissal claim to be presented before or at the same time as the application for interim relief, not after it, and therefore the claimant's claim for interim relief must be dismissed.

USE OF AI

32. Ms Mahaka produced during this hearing a skeleton argument in response to the skeleton argument produced by Miss Martin. Amongst other things, this contained the following: "*The Respondents' assertion that the ET1 was premature is a red herring. The principle in Adams v Wincanton Group Ltd [2013] IRLR 725 (EAT) provides that a technically premature unfair dismissal claim is treated as presented on the Effective Date of Termination (EDT).*" This reference to Adams v Wincanton seemed to me to be potentially relevant to some of the matters I had to decide, but on seeking the case at the reference given (or indeed any other reference) I could not find it. I understand Miss Martin embarked on a similar search without success. I asked Ms Mahaka if she could clarify this reference or provide a copy of the case she had in mind. She could not. I suggested to her that this was sometimes the kind of problem that arose where AI was used in the production of a document, and she accepted that in

the limited time she had had she had used AI in the production of the document. In principle there is no objection to the use of AI by litigants, but there is a problem where such AI use produces material that may mislead the tribunal. I urge the claimant and Ms Mahaka to check and verify any material that they use in this case that has been produced by AI, and in particular any references to case law or statute that is produced by AI. The claimant and/or his representative remain accountable for materials they submit to the court, whether prepared with the assistance of AI or not.

FURTHER ORDERS

33. At the conclusion of the hearing I asked the parties whether they considered there was anything more I could do to progress the claim ahead of the intended case management hearing in August 2026. I indicated that in these circumstances I would not make any further orders or take further steps unless they both agreed I should. There was no such agreement and therefore I have taken no further steps.

Approved by Employment Judge Anstis
12 December 2025

Sent to the parties on:
17 December 2025

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For the Tribunal:
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