



EMPLOYMENT TRIBUNALS

Claimant
S Khokhar

v

Respondent
R Whitley and Company

Heard at: Watford by video
Before: Employment Judge W Anderson

On: 11 December 2025

Appearances

For the claimant: In person
For the respondent: A Rozycki (counsel)

JUDGMENT

The claimant's application for interim relief is refused.

Background

1. The purpose of this hearing was to consider the claimant's application for interim relief, validly filed on 10 October 2025. The claimant brings claims of automatically unfair dismissal, discrimination and unpaid wages against the respondent. The claimant was dismissed on 3 October 2025.

The Hearing

2. The respondent filed a bundle of documents running to 756 pages, which included a witness statement and supporting documents (201 pages in total) that the claimant had filed separately on 5 December 2025. In addition, I received a skeleton argument from Mr Rozycki and the grounds of response which I was told were filed yesterday. Before the hearing started I had read the claimant's 70 page grounds of claim, an investigation report and the dismissal letter. The parties asked me to read a further ten or so documents and I took a reading break of 45 minutes to do this as well as to read the skeleton and response. The claimant had not read the skeleton and response, receiving them last night, so he also had the opportunity to read during the break. I explained to the claimant that I would need to consider whether his claim of dismissal due to whistleblowing was likely to succeed at

a final hearing, so that would include whether disclosures were made, and if so whether they led to his dismissal.

3. After the break the claimant said that it would take him a couple of weeks to consider and understand the arguments raised in the skeleton. I asked him if he would prefer to hear Mr Rozycki's submissions first, as this may assist him in making his own. He agreed that Mr Rosycki should start. I checked with the claimant after Mr Rozycki had finished whether he would like a few minutes before he made his own submissions, but he said that he was happy to proceed. After submissions I considered the application and I gave an oral judgment. The claimant requested full written reasons which I have set out below.
4. The claimant said that he brought his claim on the grounds that he had been automatically unfairly dismissed for whistleblowing (s103 Employment Rights Act 1996 [ERA96]) and making a flexible working request (s104C ERA96). I set out to the claimant that s104C was not, to my understanding, one of the claims upon which an application for interim relief could be founded under s128 ERA96 and asked him if he believed that such a claim was supported by any other statute. He said that he did not know. I therefore proceeded on the basis that the application was founded on the s103A claim and only heard submissions on that matter.

The Law

5. *S103A Employment Rights Act 1996 – Protected Disclosure*

An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.

6. *S43A Employment Rights Act 1996 – Meaning of 'protected disclosure'*

In this act a protected disclosure means a qualifying disclosure as defined by section 43B which is made by a worker in accordance with any of sections 43C to 43H.

7. *S43B Employment Rights Act 1996 - Disclosures Qualifying for Protection*

(1) In this Part 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 following—

...

(d) that the health or safety of any individual has been, is being or is likely to be endangered,

...

8. Pursuant to s43C a qualifying disclosure is made if the worker makes the disclosure to his employer.
9. *s128 Employment Rights Act 1996 — Interim relief pending determination of complaint.*

(1) An employee who presents a complaint to an employment tribunal that he has been unfairly dismissed and—

(a) that the reason (or if more than one the principal reason) for the dismissal is one of those specified in—

(i) section 100(1)(a) and (b), 101A(1)(d), 102(1), 103 or 103A,

...
may apply to the tribunal for interim relief.

...

Decision and Reasons

10. In a claim for interim relief the tribunal's task 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*' [Ryb v Nomura International plc ET Case No.3202174/09]. The tribunal does not make findings of fact when deciding an interim relief application but must make '*an expeditious summary assessment*' [London City Airport Ltd v Chacko 2013 IRLR 610, EAT].
11. Under s129(1) ERA96 the test to be applied in respect of an application for interim relief is to consider whether '*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 automatically unfair reason for dismissal is established.
12. I made it clear to the parties that although I had drawn conclusions from the information before me for the purposes of deciding this application, this was an application for interim relief, and I did not make any findings of fact.
13. It is the claimant's case that he was dismissed for making protected disclosures. The claimant filed grounds of claim in excess of 70 pages in which there are references to whistleblowing, in so far as allegations are made in the grounds about the practices of the respondent in relation to tenants of the properties managed, and he says that he raised these with the respondent. No detail is provided of the claimant actually making disclosures of the allegations.
14. The claimant filed a witness statement and supporting documents in support of this hearing on 5 December 2025. The documents run to 210 pages. He took me to a document which he says shows discriminatory behaviour by the respondent. I accept that the document could potentially show unlawful practices. He was not able to show that he had disclosed to anyone that he believed the email to demonstrate unlawful behaviour nor did he offer any details about when, how or to whom any disclosure had been made. He said this was because he had been locked out of the respondent's systems when he was suspended and so is not therefore now able to provide that information. I note that the example I was taken to, was an email dated 14 November 2024. The claimant remained in employment until 3 October 2025, albeit I accept he was not at work after 23 July 2025. The parties disagree as to whether the claimant was put on paid leave at this time or was suspended. That matter is not relevant to this application.

15. The claimant was invited on 7 August 2025, by the respondent's employment lawyers, Irwin Mitchell, to take part in an investigation, the subject matter of which was a consideration of his request for flexible working made on 21 July 2025, grievances he had raised and concerns the respondent had about his behaviour, including a number of allegations he had made about staff members and the respondent. The claimant did not attend the first scheduled investigation meeting or the second. He was then sent a list of questions and invited to respond in writing. He did not. As noted, Irwin Mitchell are solicitors for the respondent but the investigatory work was siloed from the day to day employment advice provided, as was explained to the claimant.
16. The claimant said that he was hampered in putting his case as he did not have access to the respondent's systems. I could see no indication from the tone of the communications from Irwin Mitchell and the subsequent report produced that would indicate anything other than that if the claimant had attended a meeting and set out his allegations of whistleblowing that these would have been investigated and the relevant documents requested from the respondent.
17. Irwin Mitchell's recommendations included that consideration of the claimant's dismissal for gross misconduct was warranted, in relation to the allegations he had made against the respondent's employees. The respondent invited the claimant to a disciplinary hearing with Richard Whitley, managing partner, to take place on 2 October 2025. The claimant did not attend. He was subsequently dismissed.
18. It is the claimant's position that he was, and is, unable to provide evidence of making a protected disclosure as he has been disadvantaged by the unfair and unlawful process of the investigation and disciplinary proceedings instigated by the respondent, and that once disclosure is made, he will be able to show that protected disclosures were made. He would not take part in the investigation process as he believed it was unfair, biased and in contravention of the ACAS code.
19. For the respondent, Mr Rozycki said that the claimant has made voluminous pleadings but has not clearly set out any specific allegations of whistleblowing, from which it can be concluded that such acts took place. He said that if the claimant truly believed that he had made such disclosures he would have engaged in the investigation process and in deciding not to do so he would have difficulty at a final hearing in persuading the tribunal to uphold his claim in this respect. He said that the reasons for dismissal were set out clearly in the dismissal letter, which flowed from the independent investigation, and were unrelated to any alleged disclosures.

This is an interim relief hearing. It is not a mini trial. My task is to make a broad assessment of the material before me. The volume of documents provided for this hearing was disproportionate to the exercise I needed to carry out. I have read what I believed to be the key documents and other important documents the parties referred me to. The test is whether the claim is likely to succeed at the final hearing, and this has been determined to mean a pretty good chance of success [*Taplin v C Shippam Ltd 1978 ICR 1068*,

EATJ. This is a high bar. In my view the claimant has not met it and I refuse the application. Despite all of the material provided for today's hearing the claimant was unable to give one specific example of making a disclosure to the respondent, and therefore I could not go on to consider whether any other of the related tests relevant to s43B and 43C ERA 96 were likely to be met. While I accept that disclosure has not yet taken place, this is almost always the situation when an interim relief application is heard. There is no reason why this should stop the claimant providing approximate dates and other details about when alleged disclosures were made. In addition, the respondent has provided an alternative reason for dismissal which is evidenced and is plausible.

Approved by:

Employment Judge W Anderson

Date: 11 December 2025

Sent to the parties on: 8 January 2026

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For the Tribunal Office