EMPLOYMENT TRIBUNALS

Claimant: Mr Andrejs Mizujevs
Respondent: Tesco Stores Limited

Heard at: Watford Employment Tribunal by CVP
On: 8 January 2026
Before: Employment Judge Alliott

Representation
Claimant: In person
Respondent: Mr Sam Nicholls (counsel)

JUDGMENT

The judgment of the tribunal is that:

1. The claimant's application for interim relief is dismissed.

REASONS

Introduction

1. This hearing is to determine the claimant's application for interim relief.

2. The claimant was employed by the respondent as a Tesco Colleague (Customer Assistant) at its Ambleside Market Place Express Store, Cumbria, on 9 December 2023. The claimant was summarily dismissed on 15 August 2025. The reason given by the respondent is gross misconduct, The claimant does not have two years' continuous service to present a claim of "ordinary" unfair dismissal.

3. By a claim form presented on 22 August 2025, the claimant presents claims of automatically unfair dismissal for:

   (i) Carrying out or proposing to carry out activities in connection with preventing or reducing risks to health and safety at work, having been designated by the employer to do so (section 100(1)(a)) Emnployment Rights Act 1996.

   (ii) Making a protected disclosure (whistleblowing)(section 103A Employment

Rights Act 1996).

(iii) A reason relating to a prohibited list (blacklist) (Section 104F Employment Rights Act 1996).

The law

4. Section 128 sets out the application requirements and the respondent accepts that the claimant has complied.

5. Section 129(1) Employment Rights Act provides:-

> "129 Procedure on hearing of application and making of order.
>
> (1) This section applies where, 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—
>
> (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, or
>
> …
>
> (b) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was the one specified in the opening words of section 104F(1) and the condition in paragraph (a) or (b) of that subsection was met."

6. Section 100(1)(a) ERA provides:-

> "100 Health and safety cases.
>
> (1) 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—
>
> (a) having been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety at work, the employee carried out (or proposed to carry out) any such activities."

7. Section 43B ERA 1996 provides as follows:

> "43B 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—
>
> (a) that a criminal offence has been committed, is being committed or is likely to be committed,
>
> (b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,

(c) that a miscarriage of justice has occurred, is occurring or is likely to occur,

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

(e) that the environment has been, is being or is likely to be damaged, or

(f) that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed."

8. Section 103A of ERA 1996 provides as follows:-

"103A 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."

9. Section 104F of ERA 1996 provides as follows:-

"104F Blacklists

(1) 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 relates to a prohibited list, and either—

(a) the employer contravenes regulation 3 of the 2010 Regulations in relation to that prohibited list, or

(b) the employer—

(i) relies on information supplied by a person who contravenes that regulation in relation to that list, and

(ii) knows or ought reasonably to know that the information relied on is supplied in contravention of that regulation."

10. The Employment Relations 1999 (Blacklists) Regulations 2010 provides as follows:-

"General prohibition

3.—(1) Subject to regulation 4, no person shall compile, use, sell or supply a prohibited list.

(2) A "prohibited list" is a list which—

(a) contains details of persons who are or have been members of trade unions or persons who are taking part or have taken part in the activities of trade unions, and

(b) is compiled with a view to being used by employers or employment agencies for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers."

11. As per the IDS Employment Law Handbook Unfair Dismissal at 18.22:-

> "Likelihood of success.
>
> …
>
> The test is 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. The EAT in London City Airport Limited v Chacko [2013] IRLR 610 EAT, stated that this test requires the tribunal to carry out an "expeditious summary assessment" as to how the matters appear 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."

12. And at 18.23:

> "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 Limited [1978] ICR 1068 EAT. In that case, the EAT expressly ruled out alternative tests such as a "real possibility" or "reasonable prospect" of success, or a 51% or better chance of success. According to the EAT, the burden of proof in that interim relief application was intended to be greater than that at the full hearing, where the tribunal need only be satisfied on the "balance of probabilities" that the claimant has made out his or her case – ie, the "51% or better test."

13. I am not making findings of fact.

14. The test needs to be applied to all elements of the claim.

The evidence

15. I had a hearing bundle of 192 pages long with an index.

16. I had two bundles of documents from the claimant.

17. I had a witness statement from Mr Neil Stanton, Store Manager at Barrow-in-Furness.

18. I had a skeleton argument from Mr Nicholls for which I am grateful.

The facts

19. The claimant was employed by the respondent as a Customer Assistant on 9 December 2023 at its Ambleside Market Place Express Store, Cumbria.

Health and safety.

20. The claimant accepted that he was not a health and safety representative.

21. The claimant told me that he had had health and safety training and that he had signed a paper as an employee acknowledging that he was responsible for the health and safety of colleagues and the public at the store.

22. The claimant acknowledged that he was not, as he put it, "directly," designated to carry out activities in connection with preventing or reducing risks to health

and safety at work. In my judgment, at best, the claimant had a general duty as an employee for health and safety in the store. I find that he does not have a pretty good chance of establishing that he was designated under section 100(1)(a) Employment Rights Act 1996.

Trade union membership/activities

23. The claimant was a member of USDAW Trade Union. The claimant told me he was not involved in trade union activities.

24. This head of claim appears to have been relied upon based on an alleged comment from a manager that if the claimant did not stop writing grievances she would put him on her blacklist. I find that the claimant does not have a pretty good chance of establishing that the respondent had or used a prohibited list or acted upon any such information from such a list.

Protected disclosures

25. The claimant relies on "999" calls to the police on 8 March and 21 July 2025 wherein he says he complained about bullying and harassment. He also relies on an anonymous call to "Tesco Protect Line" on 15 June 2025 complaining about management. He also relies upon a grievance lodged on 4 July 2025. The grievance is in very general terms and the claimant told me he expected it to "initiate an investigation."

26. Obviously enough, I do not make findings on whether or not these were protected disclosures. However, in my judgment the claimant may well face difficulties in establishing that factual information was disclosed, that it was made in the public interest and that he had the requisite reasonable beliefs

27. That being said, I have looked at the claimant's dismissal in context.

28. On 30 June 2025, the claimant was invited to an investigation meeting to deal with four allegations arising out of his conduct in June 2025.

29. The grievance was put in after that invitation which may impugn any suggestion that it was in the public interest.

30. On 21 July 2025 there was clearly a significant incident that resulted in the claimant being suspended. In the subsequent disciplinary hearing, the claimant admitted refusing to go to the office when directed to do so, refusing to leave the shop when directed to do so and having to be escorted off the premises by the police.

31. The claimant was interviewed in an investigation meeting and had a disciplinary hearing with Mr Neil Stanton who found that the claimant was guilty of gross misconduct and decided summarily to dismiss him. Whilst Neil Stanton was aware in general terms that the claimant had put in a grievance, he was unaware of any specific allegations. Neil Stanton did not know the claimant prior to the disciplinary process.

32. Having reviewed all the information placed before me, even if the claimant does

establish that he made one or more protected disclosures, I find that he does not have a pretty good chance of establishing that the reason for his dismissal was because of or connected to any such protected disclosures.

33. Consequently, the application for interim relief fails.

Approved by:

Employment Judge Alliott

Date 22 January2026

JUDGMENT SENT TO THE PARTIES ON
26 January 2026
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FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/