



EMPLOYMENT TRIBUNALS

Heard at	Croydon (by video)	On 29 January 2026
Claimant	Mrs Virlinger Simmons	
Respondent	Bromley GP Alliance	
Before	Employment Judge Fowell	
Appearances		
Claimant	In Person	
Respondent	No appearance	

JUDGMENT ON A PRELIMINARY ISSUE

The application for interim relief is dismissed.

REASONS

1. This is an application for “interim relief”, which is a term used for various orders a Tribunal can make shortly after someone is dismissed, the most common being that they are reinstated to their old job until a final hearing.
2. The legal framework for applications for interim relief begins at section 128 Employment Rights Act 1996.
3. There are strict time limits. By subsection (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 7 days immediately following the effective date of termination (whether before, on or after that date).
4. Here, the claim form was presented on 27 November 2025. It did not state when Mrs Simmons had been dismissed. From the documents provided for this hearing, the concern is not so much that Mrs Simmons’ application was late, but that it was too early. She was dismissed on 18 December 2025.
5. She confirmed today that she was in her probation period when she brought the claim and was signed off sick. A meeting was arranged for 1 December and she was told that she might then be dismissed, but she was off sick so the meeting

was adjourned until 18 December. She was still off sick when that date came around but this time the meeting went ahead, in her absence, and she was dismissed.

6. Section 128 begins:

(1) An employee who presents a complaint to an employment tribunal that he has been unfairly dismissed... may apply to the tribunal for interim relief."

7. So, the first requirement is to have presented a complaint of unfair dismissal. That means a valid complaint, one which the Tribunal has power to consider.

8. Section 111 deals with those complaints. It begins:

(1) A complaint may be presented to an employment tribunal against an employer by any person that he was unfairly dismissed by his employer."

9. The use of the past tense – "has been unfairly dismissed" - means that the dismissal has to have taken place.

10. For completeness, there is a potential exception to this. Section 111(3) states:

(3) Where a dismissal is with notice, an employment tribunal shall consider a complaint under this section if it is presented after the notice is given but before the effective date of termination.

11. It follows that in a case where notice is given, an Employment Tribunal *shall not* consider such a complaint if it is presented *before* the notice is given.

12. On this occasion no notice was given, so on any view this complaint is premature and the Tribunal has no jurisdiction to consider it. Jurisdiction is an important concept. Tribunals are given powers by Parliament in various statutes and regulations. They have to act within the scope of the powers they are given. It is not open to a Tribunal to ignore these limits.

13. Mrs Simmons presented a second claim, 6044331/2025 on 1 December 2025, this time having completed early conciliation, but the same problems apply: she had not been dismissed or given notice at that point. Hence, this second claim does not affect the position and the application must be refused.

The complaint of unfair dismissal

14. That leaves open a concern about the complaint(s) of unfair dismissal generally. Again, both were premature. Should they too be struck out as an abuse of the Tribunal's process? There is the power to do so under rules 28 or 38 of the Employment Tribunal Rules of Procedure. I explained to Mrs Simmons that this hearing was only listed to consider her application for interim relief. Any such a final order can only be made at a public hearing with proper notice given that that

might be a possible outcome. However, the respondent will shortly be expected to provide a response to the claims and may raise these arguments.

15. A similar situation was dealt with recently by the Court of Appeal in **Reynolds v Abel Estate Agent Ltd and ors** 2025 EWCA Civ 1357. Ms Reynolds also applied for interim relief, so she did not need to go through early conciliation for her unfair dismissal claim. She should have gone through early conciliation for another type of claim but she did not. The mistake was not spotted and the other claim was let through. The Court held that the Tribunal should have rejected it. In fact, they concluded that the Tribunal still had no jurisdiction to consider it, even though it had been allowed to proceed in error. It ought to have been dismissed by the Tribunal when they realised the position.
16. It was argued in that case that the longer it took to detect the problem, the greater the risk that the claim would be out of time. That was not doubted, but the more important consideration was the statutory language: Parliament intended that claimants should go through early conciliation; if they did not do so then their claims should not be allowed to proceed.
17. That case concerned one type of problem about jurisdiction – the need to complete the early conciliation requirements. As I have said, in her second claim Mrs Simmons *has* completed early conciliation. But there is still an issue about the timing. She had not been dismissed and so was not in a position to bring a complaint of unfair dismissal. That raises a second issue of jurisdiction. It should not have been accepted. It may well be argued, applying the same principles set out in **Reynolds**, that it ought now to be dismissed.
18. I explained to Mrs Simmons that it was open to her to present a fresh complaint of unfair dismissal, having been dismissed, since she is still in time to do so. It should not be necessary to go through early conciliation again, but that may be a further precaution. Doing all that should avoid any such arguments in her case.

Employment Judge Fowell

Date 29 January 2026

SENT TO THE PARTIES ON

28 February 2026

For the Tribunal Office

P Wing

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>