



EMPLOYMENT TRIBUNALS

Claimant: Mr. A. Naumov

Respondent: FIL Investment Management Limited

Heard at: London South Employment Tribunal (via CVP video conference)

On: 11th September 2025

Before: Employment Judge Sudra (sitting alone)

Representation

Claimant: In-Person (unrepresented)

Respondent: Ms. T. Barsam of Counsel

JUDGMENT

The Claimant's application for interim relief is refused.

REASONS

Introduction

1. The purposes of the Hearing was to adjudicate upon the Claimant's application for interim relief.

The Hearing

2. The Hearing was listed for three-hours and both parties attended via CVP video conference (the Claimant attended from Poland which is on the Foreign,

Commonwealth & Development Office's list of countries from which it is permissible to remotely participate in UK Tribunal hearings).

3. By a claim form presented on 28th August 2025 the Claimant made an application for interim relief under s.128 Employment Rights Act 1996 ('ERA'). The Claimant's employment terminated on 22nd August 2025 for some other substantial reason ('SOSR') and therefore, the claim for interim relief has been brought within the time frame specified in s.128 (4) ERA. The notice of hearing was dated 29th August 2025, so the parties have had seven days' notice.
4. The Claimant has made claims of unfair dismissal, whistleblowing detriments and dismissal due to having made a protected disclosure in the public interest and victimisation contrary to s.39(4) Equality Act 2010 ('EqA').
5. The Claimant already has another claim in the Tribunal under claim number 6010832/2024 which was submitted prior to the Claimant's employment terminating. Whilst the two claims are to be joined, for the purposes of today's Hearing I was just considering the claim presented on 28th August 2025.
6. I do not make any findings of fact, however, it is useful to summarise the Claimant's claim under s.103A ERA and the parties' submissions.

Documents

7. I had before me:
 - i. A bundle consisting of 218 pages;
 - ii. Written submissions from the respondent;
 - iii. A bundle of authorities; and
 - iv. W/s from Tim Blencowe and Des Haren on behalf of the Respondent.

I heard oral submissions from both the Claimant and Ms. Barsam during the Hearing.

8. The Claimant was employed by the Respondent on 21st February 2023 as a client service associate and at the material times he was line-managed by Ms. Maria McGarvey (Team Leader). The Respondent is an investment management company which employs circa 3,300 employees in the UK.
9. In the late summer and early to mid-autumn of 2023 the Claimant raised concerns regarding what he believed to be incorrect account processes and on 22nd November 2023, he emailed a report to the Respondent's whistleblowing reporting system.
10. The Claimant's case is that he made further disclosures in early 2024, February, April and July 2025. These were helpfully set out at paragraph 32(A) to (E) of Ms Barsam's skeleton argument as follows,
 - (A) *On 24 August 2023, 18 September 2023 and 22 November 2023, the Claimant identified "an incorrect account access process or deviation of the process" whereby a client was denied access to his account ("First Alleged Disclosures");*
 - (B) *In January/February and March 2024, the Claimant identified "that the account process for the Personal Investing team was incorrect on the account access knowledge page" ("Second Alleged Disclosures");*
 - (C) *In around February 2025, the Claimant "identified misleading/incorrect T&Cs regarding service fees for PI clients with less than £25,000" ("Third Alleged Disclosures");*
 - (D) *Around April 2025 and on 30 July 2025, the Claimant identified that Leanne Duff, team leader, "tipping off phishing training" ("Fourth Alleged Disclosures"); and*
 - (E) *On 28 July 2025, the Claimant asked Karen Blondell to review Tim Blencowe's conduct in light of the Respondent's denial in the ET3 that the Claimant had made a qualifying disclosure ("Fifth Alleged Disclosure").'*
11. In April 2025 Ms. McGarvey emailed the Claimant, following a meeting with him on 4th April 2025, to discuss his interactions with the SSPs. The Claimant was instructed to raise any issues he had about feedback received from SSP's with Ms. McGarvey and not directly with the SSP's. This was as the Respondent believed that Claimant's relationship with the SSP's was strained as they had

been upset or offended by the way in which the Claimant communicated his feedback to them and the language he used when doing so.

12. On 25th July 2025 Mr. Haren (Associate Director) invited the Claimant to attend a disciplinary hearing and explained that the reason for doing so, was because the Respondent wished to review the Claimant's continued employment in light of his alleged refusal to follow Ms. McGarvey's instruction and because it was believed that he could not '*engage constructively with colleagues to sustain relationships.*' Mr. Haren explained that the Claimant's behaviours had led to an irretrievable breakdown of the employment relationship.
13. The disciplinary hearing was held on 4th August 2025 which the Claimant attended unrepresented. Having considered the evidence available and having had regard to the Claimant's representations, Mr. Haren decided that the relationship was beyond repair and on 22nd August 2025, he wrote to the Claimant informing him that his employment was being terminated for SOSR and he would not need to work out his notice as he would be paid in lieu of notice.

The Claimant's Submissions

14. The Claimant's submissions were succinct. He said that he made disclosures in good faith as he believed that the respondent had breached legal obligations, Mr. Haren was aware he had made disclosures, and that the reason he was dismissed was because he had '*blew the whistle.*'

The Respondent's Submissions

15. Ms. Barsam supplemented her skeleton argument with oral submissions. The law was correctly and fairly set out in Ms. Barsam's skeleton argument. I heard that none of the Claimant's disclosures identified a breach of a legal requirement and that they related to operational matters and an alleged failure by the respondent to follow its internal processes.

16. It was accepted that the Claimant had raised concerns of an operational nature which the Respondent had looked into and sought to address. There was no indication of any animosity between the Claimant and Respondent and that his concerns were properly considered.
17. The Claimant had been told to be more collegiate and collaborative with his colleagues and not assume a combative stance or use intemperate language. As the Claimant failed to moderate his behaviour or raise issues with Ms. McGarvey in the first instance, as instructed, there was no other option but to terminate the Claimant's employment for SOSR. Ms. Barsam also submitted that there was no causal link between the alleged disclosures and the Claimant's dismissal.

The Law

18. By virtue of s.94 Employment Rights Act 1996 ('ERA'), employees have, subject to certain conditions, a right not to be unfairly dismissed. By s.103A ERA, where the reason, or if more than one, the principal reason, for dismissal is that the employee made a protected disclosure within the meaning of s.43A ERA, the dismissal is automatically unfair.
19. By s.230 ERA, an employee is someone who has entered into or works under (or where the employment has ceased, worked under) a contract of employment. A contract of employment is defined as a contract of service or apprenticeship.
20. Dismissal, for the purposes of a complaint of unfair dismissal, is defined at s.95 ERA:

'95 Circumstances in which an employee is dismissed.

(1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to subsection (2) only if)—
(a) the contract under which he is employed is terminated by the employer (whether with or without notice),
(b) he is employed under a limited-term contract and that contract terminates by virtue of the limiting event without being renewed under the same contract, or

(c)the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer's conduct.'

21. In Williams v. Michelle Brown AM UKEAT/0044/19/OO at [9], HHJ Auerbach summarised the five issues, which a Tribunal is required to decide in relation to whether something amounts to a qualifying disclosure:

*'It is worth restating, as the authorities have done many times, that this definition breaks down into a number of elements. **First**, there must be a disclosure of information. **Secondly**, the worker must believe that the disclosure is made in the public interest. **Thirdly**, if the worker does hold such a belief, it must be reasonably held. **Fourthly**, the worker must believe that the disclosure tends to show one or more of the matters listed in sub-paragraphs (a) to (f). **Fifthly**, if the worker does hold such a belief, it must be reasonably held.'* (My emphasis).

22. In order for a qualifying disclosure to be a protected disclosure it must be made in accordance with s.43C to 43H ERA.
23. The 'reason' or reasons for dismissal is/are the factor(s) operating on the decision-maker's mind which causes him/her to take the dismissal decision (Croydon Health Services NHS Trust v. Beatt [2017] ICR 1420). In some circumstances, the net could be cast wider than the person who made the decision to dismiss, such as where the facts known to, or beliefs held by, the decision-maker have been manipulated by another person (Royal Mail Ltd v. Jhuti [2019] UKSC 5 and explained further in Kong v. Gulf International Bank (UK) Limited EA-2020-000357-JOJ).

Interim Relief

24. SS.128 to 130 ERA make provision for interim relief. This is a remedy for (certain types of) unfair dismissal. It is worth setting out s.128 in full and part of s.129 ERA:

'128 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.... 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).

(3) The tribunal shall determine the application for interim relief as soon as practicable after receiving the application.

(4) The tribunal shall give to the employer not later than seven days before the date of the hearing a copy of the application together with notice of the date, time and place of the hearing.

(5) The tribunal shall not exercise any power it has of postponing the hearing of an application for interim relief except where it is satisfied that special circumstances exist which justify it in doing so.

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.... 103A, or

[...]

(2) The tribunal shall announce its findings and explain to both parties (if present)—

(a) what powers the tribunal may exercise on the application, and

(b) in what circumstances it will exercise them.

(3) The tribunal shall ask the employer (if present) whether he is willing, pending the determination or settlement of the complaint—

(a) to reinstate the employee (that is, to treat him in all respects as if he had not been dismissed), or

(b) if not, to re-engage him in another job on terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed.'

25. Rule 95 provides that the hearing should be conducted as a Preliminary Hearing within Rules 53 to 56. The proper approach is as follows (Parsons v. Airplus UKEAT/0023/16/JOJ 4 March 2016 at para [8]):

'On hearing an application under section 128 the Employment Judge is required to make a summary assessment on the basis of the material then before her of whether the Claimant has a pretty good chance of succeeding on the relevant claim. The Judge is not required (and would be wrong to attempt) to make a summary determination of the claim itself. In giving reasons for her decision, it is sufficient for the Judge to indicate the "essential gist of her reasoning": this

is because the Judge is not making a final judgment and her decision will inevitably be based to an extent on impression and therefore not susceptible to detailed reasoning; and because, as far as possible, it is better not say anything which might pre-judge the final determination on the merits.'

26. Interim relief should be ordered only if it appears that it is likely that on determining the complaint the Tribunal will find that the reason or principal reason for the dismissal was a proscribed ground: s.129 ERA. There is judicial guidance on the meaning of '*likely*' in this context:

- 1.1. A "*pretty good chance of success*": Taplin v. C Shippam Ltd [1978] IRLR 450 [23]; Wollenberg v. Global Gaming Ventures (Leeds) Ltd (UKEAT/0053/18));
- 1.2. "*something nearer to certainty than mere probability*": Ministry of Justice v. Sarfraz [2011] IRLR 562 at [19]; and
- 1.3. a "*good arguable case*" is not enough: Parsons v. Airplus UKEAT/0023/16/JOJ 4 March 2016.

27. The hurdle which the Claimant must clear is set relatively high. There is good reason for this. As the EAT noted in Dandpat v. University of Bath UKEAT/0408/09, 10 November 2009 unreported:

'20. ... We do in fact see good reasons of policy for setting the test comparatively high, in the way in which this Tribunal did, in the case of applications for interim relief. If relief is granted the respondent is irretrievably prejudiced because he is obliged to treat the contract as continuing, and pay the claimant, until the conclusion of proceedings: that is not [a] consequence that should be imposed lightly'.

28. The Tribunal cannot be criticised for concluding that matters are not sufficiently clear cut at the interim relief stage for it to have sufficient confidence in the eventual outcome to grant interim relief: Parsons at [18].

Discussions and Conclusions

29. For the purposes of this Hearing, the issue is whether under s.129 ERA it appears that it is likely that the reason for the dismissal is was making a protected disclosure as per s. 43B ERA. In order to determine 'whether it is likely' the claimant will succeed at a full hearing. The EAT said in London City Airport v. Chacko 2013 ILR 610, that this requires the Tribunal to carry out an 'expeditious summary assessment' as to how the matter appears on the material available, doing the best it can with the untested evidence advanced by each party. Clearly this involves less detailed scrutiny than will be undertaken at the full final hearing.
30. 'Likelihood' has been interpreted to mean '*a pretty good chance of success*' at the full hearing - Taplin. The burden of proof was intended to be greater than that at a full hearing, where the Tribunal only needs to be satisfied on the balance of probabilities that the Claimant has made out her case - or 51% or better. A pretty good chance is something nearer to certainty than mere probability.
31. I conclude that the Claimant has not satisfied that burden (which is a very difficult one to surmount). He has not convinced me that his claim for being dismissed for making a protected disclosure is nearer to certain, rather than a possibility. He has not demonstrated at this very early stage in the proceedings, that it is likely his claim will succeed at a full hearing, nor that it has a pretty good chance of success.
32. I am mindful of the fact that the complexity of a claim is not sufficient reason to conclude it does not have pretty good chances of success, In Raja v. Secretary of State for Justice UKEAT/0364/09, the EAT criticised an Employment Judge's decision that interim relief orders should only be made in connection with simple factual disputes.
33. These are not matters that I can, based on the evidence currently available, assess in such a way as to enable me to conclude that the claimant has a pretty good chance of success.

34. For these reasons the application is refused.

Employment Judge Sudra

Date: 11th September 2025

Judgment sent to parties on:
Date: 26th February 2026

For the Tribunal Office