



EMPLOYMENT TRIBUNALS

Claimant: Stephen Wise

Respondent: Yorestore Limited

Heard at: (in public; by video) **On:** 12 January 2026

Before: Employment Judge Childe

Appearances

For the claimant: In Person

For the respondent: Mr Allen (counsel)

PRELIMINARY HEARING IN PUBLIC REASONS

Summary of the case and Introduction

1. This is a case in which the claimant, a general and project manager, alleges that he made two protected disclosures orally to the respondent about an unsafe bagging plant machine and a fire safety issue, that the respondent operated.
2. The claimant says his protected disclosures were deliberately ignored by the respondent and the respondent allowed the bagging plant to be operated by two teenagers during half term, despite him having raised his concerns about the safety of the bagging plant.

3. The claimant says the matters at paragraph 2 were a fundamental breach of his contract of employment by the respondent because he made protected disclosures, he resigned as a result of this fundamental breach and he was entitled to treat himself as constructively dismissed by the respondent. Such constructive dismissal, the claimant says, was automatically unfair due to him making the protected disclosures.
4. The respondent disputes the contents of the oral disclosures made by the claimant, and disputes that they ignored the concerns raised by the claimant. On the contrary, the respondent says they took proactive steps to arrange health and safety training to address the claimant's concerns. The respondent also says that the decision to allow the two teenagers to operate the bagging plant during half term have been taken prior to the claimant making the protected disclosures and was not taken because of the protected disclosures.
5. I had access to a tribunal bundle from the claimant which ran to 44 pages and a tribunal bundle from the respondent which ran to 120 pages.
6. I was provided with witness statements from the claimant and Tim Gibson, managing director of the respondent. We agreed that I would read the witness statements and take them at face value, but not hear any witness evidence or test the evidence.
7. I had the benefit of written skeleton arguments from both the claimant and the respondent, and these were supplemented by oral submissions.
8. I gave my decision orally on the day and sent the judgment to the parties afterwards. The claimant then made a request for written reasons.

Issues in this case

9. A dismissal will be automatically unfair under S.103A Employment Rights Act 1996 (“ERA”) if the sole or principal reason for dismissal was that the employee had made a protected disclosure.
10. Where an employee claims that he was constructively dismissed contrary to [s.103A](#) ERA, it is not strictly possible for a tribunal to examine the employer’s reason for dismissal, because the decision that triggers the dismissal is the employee’s resignation.
11. The question for consideration is therefore whether the protected disclosure was the principal reason that the respondent committed the fundamental breach of the employee’s contract of employment that precipitated the resignation. If it was, then the dismissal will be automatically unfair.

Relevant Law

12. Section 103A ERA 1996 provides:

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.

13. An employee that presents a complaint that his or her dismissal was unfair and that the reason was that specified in s.103A ERA 1996 may apply for interim relief (s.128(1)(a) ERA 1996).

Relief

14. The relevant parts of s.129 ERA 1996 provide:

a. (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—

1. (i) section ... 103A

(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.

...

b. The relevant part of s.130 ERA provides:

i. An order under section 129 for the continuation of a contract of employment is an order that the contract of employment continue in force—

...

Relevant Authorities

15. The following authorities are relevant in this case.

Whether it is likely that reason for dismissal was an automatically unfair one

16. The industrial tribunal should ask themselves whether the applicant has established that he has a “pretty good” chance of succeeding in the final application to the tribunal. “Likely” means more than “probable” and “probable” means “51 per cent or more” (**Taplin v. C Shippam Ltd.** [1978] ICR 1068).

17. Further guidance was provided in **Ministry of Justice v. Sarfraz** [2011] IRLR 562 at [16]: “likely” does not mean simply “more likely than not” — that is at least 51 per cent — but connotes a significantly higher degree of likelihood.

18. Where interim relief is sought in relation to a dismissal under s.103A, the claimant must show that it is likely that the tribunal will find that:

- (1) They made one or more disclosures to the employer;
- (2) The disclosure(s) (and in the case of more than one, each) met the requirements of specificity and precision identified in *Kilraine*;
- (3) They believed that:
 - (a) The disclosure tended to show one or more of the wrongs in s.43B(1); and
 - (b) The disclosure was in the public interest;
- (4) Those beliefs were reasonable;
- (5) The disclosure was the sole or principal cause of the dismissal

(**Al Qasimi v. Robinson EAT/0283/17** at [11]-[15]).

19. “what [determination of the application] requires is an expeditious summary assessment by the first instance employment judge as to how the matter looks to him on the material that he has. The statutory regime thus places emphasis

on how the matter appears in the swiftly convened summary hearing at first instance which must of necessity involve a far less detailed scrutiny of the respective cases of each of the parties and their evidence than will be ultimately undertaken at the full hearing of the claim” (**London City Airport Ltd. v. Chacko** [2013] IRLR 610 at [23]).

Analysis and conclusion

20. I've identified the legal test that I must follow in determining the claimant's application for interim relief.
21. The bar the claimant must satisfy is high. I've got to decide whether the claimant has a pretty good chance of succeeding in the various components of his argument in which he must first establish that he made a protected disclosure and then establish that the disclosure was the principal reason that the respondent committed the fundamental breach of the employee's contract of employment that precipitated the resignation. Necessarily I'm looking at this in summary format and I'm assessing it on the material before me.
22. The approach I am going to take in this decision is to first consider the claimant's case that alleged protected disclosures were the principal reason that the respondent committed the fundamental breach of the claimant's contract of employment that precipitated the resignation, and then to look at the arguments about whether the disclosures were protected.
23. The claimant's case is that the fundamental breaches of his contract of employment by the respondent were:
 - a. The respondent ignoring his protected disclosures on 13 October 2025;
 - and

- b. on 27 to 31 October 2025 matters escalated because a 15-year-old and a 17-year-old operated the bagging plant.
- 24. As set out in paragraph 11, the legal test the claimant must satisfy is:
 - a. The respondent failed to act on the protected disclosure on 13 October 2025 *because* the claimant had made that disclosure; and
 - b. The respondent asked the 15 and 17-year-olds to operate the bagging plant on 27 to 31 October 2025 *because* the claimant made a protected disclosure.
- 25. The claimant faces an evidential difficulty regarding the issue at 24.a and a fundamental legal and chronological challenge regarding the issue at 24.b.
- 26. Turning to the issue at 24.a, the evidential issue is that whilst the claimant says his disclosure was ignored, Mr Gibson says that he proactively took steps to arrange health and safety training and forklift and tele-handler training on 17 October 2025.
- 27. This seems to me to be a genuine dispute of evidence and I'm therefore not able to say, at this stage, having not tested the evidence, that the claimant has a pretty good chance of demonstrating that his health and safety concerns regarding the bagging plant were ignored by the respondent. This will have to be determined at the final hearing.
- 28. Turning to issue at 24.b, the difficulty for the claimant is, on his own case, he doesn't say that the 15- and 17-year-old were employed to operate the bagging plant on 27 to 31 October 2025 because he made a protected disclosure on 14 October 2025. Rather, his complaint is that the respondent still allowed the bagging plant to be operated by these two individuals despite him having raised his concerns about the safety of the bagging plant on 14 October 2025.

29. The respondent says that the arrangement for the two individuals to operate the bagging plan on 27 to 31 October 2025 was made in August/early September 2025 and this decision predated the claimant's disclosures on 14 October 2025. The claimant doesn't challenge this, which is consistent with his point that the reason the two individuals were asked to work on the bagging plant, was not because he made a protected disclosure. Rather, the claimant thought it was further evidence that his concerns were being ignored by the respondent.
30. I'm therefore not able to say that the claimant has a pretty good chance of demonstrating that the respondent asked the two individuals to operate the bagging plant on 27 to 31 October 2025 because the claimant made a protected disclosure, as this is not his case and the respondent has a positive case, which of course must be tested at a final hearing, that this decision was taken two months prior to the claimant making any protected disclosure.
31. For this reason, I cannot say the claimant has a pretty good prospect of establishing that the protected disclosure was the principal reason that the respondent committed the fundamental breach of the employee's contract of employment (i.e asked the two individuals to operate the bagging plant on 27 to 31 October 2025) that precipitated the resignation.
32. I therefore conclude that the claimant does not have a pretty good prospect of showing that the protected disclosures were the principal reason that the respondent committed the fundamental breaches of the claimant's contract of employment that precipitated the resignation.
33. Turning to deal briefly with whether the claimant has a pretty good prospect of showing that the two disclosures he relies on were protected disclosures.

34. The issue for the claimant in connection with this interim relief application is that those disclosures were made orally, and the contents of the disclosures themselves are not agreed by the respondent.
35. The tribunal hearing this case at final hearing will need to consider the evidence of the claimant and the respondent and any documentary evidence, to conclude exactly what was said and whether it falls within the definition of a protected disclosure under the legislation.
36. I am therefore not able to say at this stage that the claimant has a pretty good prospect of showing that the two disclosures relied on were protected disclosures.
37. Having reached this decision, I confirm that the claimant's application for interim relief is refused.

Approved by:

Employment Judge Childe

04 March 2026

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