



EMPLOYMENT TRIBUNALS

Claimant: Mr J Curtis

Respondent: DPD Group UK Limited

Heard at: Cardiff (via video)

On: 06 March 2026

Before: Employment Judge R Russell

Representation

Claimant: In person

Respondent: Mr N Smith, Counsel

JUDGMENT having been sent to the parties on 13 March 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Introduction

1. This was the Claimant's application for interim relief. The Claimant has presented two claims. The first claim (6043104/2025) was presented on 22 November 2025. At the time of presentation of the first claim, the Claimant remained employed by the Respondent.
2. The Claimant presented a second claim on 01 January 2026 (6000033/2026). This claim was issued following his dismissal on 30 December 2025. This is the claim to which the application for interim relief relates. In his claim form the Claimant ticked the relevant box to claim 'unfair dismissal'. He did not tick the box to make a whistleblowing claim. It is clear, however, from part 8.2 of the claim form that the Claimant is complaining of dismissal pursuant to section 103A of the Employment Rights Act 1996. The Claimant's claim is that the principal reason for his dismissal was that he made protected disclosures about (i) health and safety; and (ii) workplace violence.
3. The hearing was conducted via video. I was satisfied that both parties could participate fully. Reasonable adjustments were discussed with the parties at the outset of the hearing. The Claimant was offered breaks and the process and nature of the hearing was explained to him. The Claimant was permitted to turn his camera off while reading out a prepared statement. He was also encouraged to look wherever he felt comfortable if eye contact was difficult.

4. Notice of the hearing was sent to the parties on 14 February 2026. The parties were each ordered to prepare a witness statement and send it to the Tribunal and each other. The Claimant did not do so.
5. I considered the claim form and a document presented on 01 January 2026 with the claim form titled 'Employment Tribunal Claim – Summary Attachment'. I had a bundle of documents running to 26 pages, a witness statement from Sally Callis (the Respondent's People Business Partner), and a written skeleton argument on behalf of the Respondent. I heard oral submissions from both parties. Page numbers are given in square brackets below and refer to the page numbers in the bundle of documents.
6. Rule 94 of the Employment Tribunal Rules of Procedure 2024 says that 'When the Tribunal hears an application for interim relief...under...section 128...of the Employment Rights Act 1996...the Tribunal must not hear oral evidence unless it directs otherwise.' I read the witness statement of Sally Callis. In view of the nature of the application, the witness was not heard and was not cross examined on her statement.
7. I refused the Claimant's application for interim relief. Oral reasons were given at the hearing on 06 March 2026. An application for written reasons was made by the Respondent at the conclusion of the hearing.

Evidence

8. No findings of fact are made.
9. The application for interim relief was dealt with on what has been pleaded in the claim form and in a separate document presented on 01 January 2026 titled 'Employment Tribunal Claim – Summary Attachment'.
10. The Claimant says that he made 186 PPE/Health and Safety breach reports covering 75 driver registrations during his employment as a Debrief Operative at the Respondent's Cardiff depot and particularly during the period May-September 2025. He says that 'enforcing PPE and health and safety requirements as instructed by management' was part of his job. He says that the reported breaches included repeated reports on the same drivers about non-compliance with PPE rules (for example not wearing safety boots) and health and safety breaches. He says that action was not consistently taken by management in response to his reports. He claims that his reports amount to protected disclosures. He says that they were made in the public interest and tended to show a failure to comply with a legal obligation and that the health or safety of any individual has been, is being, or is likely to be endangered. He says that he made these reports to various managers and supervisors at the Cardiff depot including Gethin Stone, Emily Knowles, Luke Adams, Stephen Page, Joe Mason, and Steve Takata.
11. The Claimant says that he faced hostility from drivers following his reported breaches. This included being assaulted by a driver on 23 July 2025. The

Claimant describes himself as the victim of the assault. He says that despite not retaliating to the assault, he was suspended. He says that after the suspension ended, he returned to work on 04 September 2025 where he was placed on a safety-critical job on the FSC belt.

12. The Respondent says that it operates a zero tolerance approach to alcohol and drugs due to the nature of its operation. It has an Alcohol and Drugs Policy [2]. There does not appear to be any dispute that the Claimant was aware of this policy and that he had signed the relevant policy on 27 March 2025 to confirm that he understood it and would comply with it [9]. From the document before me, the policy provides for a drug testing procedure. There are various triggers for when a test will be carried out – at random, where there has been an accident, or ‘for cause’. The policy says that ‘For cause’ tests will be carried out when it is suspected that an employee is in breach of the policy or when it is suspected that an employee is impaired due to the use of alcohol or drugs [6].
13. The Respondent says that it has defined what it means as ‘impaired’ in its policy as: ‘In terms of this policy, an employee proven to have consumed illegal drugs or misused any other drug, is deemed to be impaired due to the use of drugs and therefore in breach of this policy’ [2].
14. The Respondent says that its policy is clear that in the event of a positive drug test, an employee will be suspended from work pending a disciplinary investigation [8].
15. The Respondent says that two of its employees smelled cannabis from the Claimant on 04 September 2025. There does not appear to be any dispute between the parties that the Claimant had used cannabis. There also does not appear to be any dispute that a sample was taken from the Claimant on 04 September 2025, that the test was conducted and analysed by an independent drug testing company, and that the Claimant tested positive for cannabis use [10].
16. The Respondent says that it suspended the Claimant on 11 September 2025 following confirmation of cannabis use. It says that this is in accordance with its policy [11].
17. The Respondent says that it dismissed the Claimant on 30 December 2025 due to the failed drug test where the Claimant tested positive for cannabis use and a breach of the Alcohol and Drugs policy [14-16]. It says that this is in line with its alcohol and drugs policy which makes clear that it regards a breach of the rules of the policy to be a ‘very serious matter’ and that it ‘will take disciplinary action in the event of any breach...which may include summary dismissal’ [3]. It says that this decision was confirmed at an appeal hearing. It says that the appeal decision was reached following a thorough appeal process, which led the appeal hearer to conclude that ‘the positive drug test result is reliable and uncontested’, and that there had been Gross Misconduct [17-21].

Relevant law

18. Section 128(1) of the Employment Rights Act 1996 provides that: '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...section 103A', may apply to the tribunal for interim relief.
19. Section 128(2) provides that '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)'.
20. Section 129 explains what will happen when it appears to the Tribunal, on hearing the interim relief application, that it is 'likely' that on determining the complaint to which the application relates, the Tribunal will find that the reason for the dismissal was one of the specified reasons. In other words, the statutory threshold for a successful application for interim relief turns on the word 'likely'.
21. The Tribunal judge, on hearing the interim relief application, must make 'an expeditious summary assessment...as to how the matter looks to him on the material that he has' (*London City Airport Limited v Chacko* [UKEAT/0013/13] at paragraph 23). The test 'is not whether the Claimant is ultimately likely to succeed in his or her complaint to the Employment Tribunal but whether "it appears to the tribunal" in this case the employment judge "that it is likely"' (*London City Airport Limited v Chacko* [UKEAT/0013/13] at paragraph 23, emphasis retained).
22. What 'likely' means has been held by the EAT in *Taplin v C. Shippam Limited* [1978] ICR 1068 to be 'whether the applicant has established that he has a "pretty good" chance of succeeding in the final application to the tribunal' (at 1074F). This is not the same as a 'reasonable prospect of success' (at 1074A). In *Ministry of Justice v Sarfraz* UKEAT/0578/10, the EAT held that 'the essential point which emerges from Taplin' is that "'likely" connotes something nearer to certainty than mere probability' (paragraph 19).

Conclusion

23. The Tribunal is only to carry out a summary assessment on the material before it and is not making a final judgment. I am not making findings of fact. My job is to make a summary assessment based on the limited evidence before me. In this case we do not yet have the Respondent's response. It is, therefore, necessarily a summary assessment and must, by its very nature, involve less scrutiny than at a final hearing.
24. For his section 103A dismissal claim the Claimant must show that he was an employee. There does not appear to be any dispute between the parties as to his employment status.
25. The Claimant must then show that he made qualifying disclosures within the meaning of s.43B(1) of the Employment Rights Act 1996. This provides that "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...(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject...(d) that the health or safety of any individual has been, is being or is likely to be endangered’.

26. The claim form and attachment are vague as to what was said in respect of the alleged disclosures. Even if it can be shown that there was disclosure of information that tends to show one of the relevant failures, the Claimant will need to establish that he had a reasonable belief that the disclosure tended to show a relevant failure and that it was made in the public interest. While the EAT in *Korashi v Abertawe Bro Morgannwg University Local Health Board* [2012] IRLR 4 reminds us that the threshold for establishing the reasonableness of belief in the relevant failure or wrongdoing is a relatively low one, the Claimant will need to establish this and that the disclosure was made in the public interest. Given that the Claimant’s job, as he says, was to report on and enforce any PPE and health and safety breaches, this Tribunal considers that the Claimant may have difficulties in showing that he was making a protected disclosure within the meaning of the statutory provisions. This is particularly the case in establishing (i) reasonable belief; and (ii) public interest. While it cannot be said that if an employee’s role involves identifying and reporting health and safety breaches that employee would be unable to show that they made a disclosure qualifying for protection, careful consideration will need to be given at the final hearing to the issues of reasonable belief and public interest.
27. I have concluded that I need not consider the question of qualifying disclosure further because even if the Claimant can show that he made disclosures qualifying for protection (there does not appear to be a dispute that the disclosures were made to his employer), the Claimant has a significant hurdle to overcome in establishing the necessary causative link between his dismissal and any such disclosures. This hurdle is such that I cannot find, on the basis of my summary assessment on the evidence before me, that the Claimant is likely to succeed in his claim that the reason for his dismissal, or the principal reason, was that he had made protected disclosures.
28. The Claimant does not have a ‘pretty good chance’ of succeeding at the final hearing. It is highly unlikely on the documents that I have seen that the Claimant will be able to show that the reason or principal reason for his dismissal is that he made a protected disclosure. The documents appeared to show that there had been a suspicion that the Claimant had used cannabis, that the Respondent has a strict policy on the use of drugs (which the Claimant had read and understood), that an independent third party had carried out a drug test, that this drug test confirmed that the Claimant had used cannabis, and that a disciplinary process was carried out in relation to the positive drug test which led to the Claimant’s dismissal.
29. It is not likely on the documents seen that the Claimant will establish that even if he did make protected disclosures, they were the reason or if more than one

the principal reason for his dismissal. The application for interim relief fails as the test has not been met.

30. The Claimant's application for interim relief is refused.

Approved by:

Employment Judge Russell

13 March 2026

JUDGMENT SENT TO THE PARTIES
ON

19 March 2026

Miriam Drake
FOR THE TRIBUNAL OFFICE