



EMPLOYMENT TRIBUNALS

Heard at: London South

On: 26 March 2026, 10 am

Claimant: Ms A Johnson

Respondent: Ashton Meadows Limited

Before: Employment Judge Ramsden

Representation:

Claimant In person

Respondent Mrs K Ragunathan

JUDGMENT ON A PRELIMINARY ISSUE

1. By consent the Respondent's name is amended to Ashton Meadows Limited.
2. The Claimant's application for interim relief does not succeed.

REASONS

3. These written reasons are provided at the request of both parties following oral reasons given earlier today.

Background

4. The Claimant was employed by the Respondent, which operates a care home, as a Care Assistant for five days from 26 January 2026 until she was summarily dismissed on 30 January 2026.
5. The Claimant contacted ACAS, which issued an Early Conciliation certificate on the same day – 4 February 2026.

6. The Claimant presented a Claim Form to the Tribunal on the same date (4 February 2026).
7. On 5 February 2026 the Respondent was notified of the Claimant's Claim, and told that if it wished to defend that Claim it needed to submit its Response to the Tribunal by 5 March 2026. No Response was received by that time.
8. The Respondent submitted a Response Form and Grounds of Resistance on 9 March 2026, with no application for an extension of time, or any explanation for the late presentation.

The application

9. The Claim comprises the following legal complaints:
 - a) That the Claimant was wrongfully dismissed, i.e., that she is owed notice pay (which the Claimant says should have been one day's wages);
 - b) That the Respondent made unauthorised deductions from her wages, contrary to section 13 of the Employment Rights Act 1996 (the **1996 Act**) in respect of 36 hours' work which the Claimant performed and which she says she was not paid for; and
 - c) That she was automatically unfairly dismissed for the sole or principal reason that she had made a protected disclosure.
10. The application to be determined at this hearing is one for interim relief.

The hearing

Adjustments

11. After enquiry, neither Party sought any adjustments to how this hearing was conducted.

Representation

12. The Claimant appeared in person. The Respondent was represented in the hearing by Mrs Ragunathan, one of its statutory directors.

Documentary evidence

13. The Claimant had prepared a bundle of evidence running to 29 pages (excluding index). The Claimant had also separately sent nine documents to the Tribunal (copying the Respondent), but she agreed that all of those documents were included in her bundle.
14. The Respondent had also prepared a bundle of evidence, which was poorly scanned and could not be read by either the Claimant or the Employment Judge. Mrs Ragunathan said that one important document she wanted to rely on that was not in the Claimant's bundle was the Claimant's letter of 31 January 2026 appealing the decision to dismiss her. The Claimant sent a copy of that document

to the Tribunal and the Respondent, and that letter was referred to in the course of the hearing.

Witness evidence

15. The Claimant had prepared a witness statement, but the Employment Judge explained that (pursuant to Rule 94 of the Employment Tribunal Procedure Rules 2024) the Tribunal must not generally hear evidence. No evidence was heard in the course of this hearing.

Submissions

16. Each of the Respondent and the Claimant made submissions in support of their respective positions.

Facts

17. The Claimant commenced work for the Respondent on 26 January 2026 as a Care Assistant.
18. The first two weeks of the Claimant's employment was designed to be induction training. In the course of that period, the Claimant was to be shown how to care for patients, including how to feed them and how to provide personal care, while being closely monitored and given feedback.
19. The Claimant says that, on 28 January 2026, she made was an oral disclosure to Diana, a Night Nurse, on 28 January 2026. The Claimant says that she told Diana that she was being sent to feed patients when she (the Claimant) does not know anything about those patients, and when she (the Claimant) had not been given the full training. The Claimant says that she was not safe to go around to those patients without knowing their care plan or anything about them. This is the **First Averred Disclosure**.
20. On 30 January 2026, the Claimant was feeding a patient - Resident M – during the lunch period.
 - a) The Respondent says that while the Claimant was feeding Resident M:
 - (i) The Claimant was being observed by a colleague who is a Nurse, who gave the Claimant feedback that she needed to speak and interact with the Respondent's residents, especially with Resident M to encourage him to eat; and
 - (ii) Unbeknownst to her, the Claimant was also being observed by one of the Respondent's Directors, Gajaruban Ragunathan. The Respondent says that it is Mr Ragunathan's practice to engage with residents during the lunch period, and to review staff and provide feedback during handovers. The Respondent says that Mr Ragunathan summoned the Claimant after she fed Resident M, and told her that he considered her approach to be alarming because

she was not engaging with the resident or focused on the resident's experience. Based on this observation, Mr Ragunathan contacted the Respondent's solicitors to draw up an immediate dismissal letter.

- b) The Claimant says that what happened, and the sequence of events, was different to how the Respondent things. The Claimant says:
- (i) She was asked to feed Resident M, and that she did so in an appropriate way;
 - (ii) She was not supervised or observed when doing this, as she should have been;
 - (iii) At around midday, she made an oral disclosure to Peter Shevlin in the Respondent's admin team. The Claimant says that she told Mr Shevlin that she was supposed to be being supervised by N, but N was not, in fact, supervising her, and that she (the Claimant) was being sent to change the diaper of Resident A when she (the Claimant) was not trained to do so. The Claimant says that she spoke more generally to Mr Shelvlin and told him that she was being sent change diapers and feed patients without being trained to do so, and when she was not competent to do so by herself. This is said by her to be the second protected disclosure she made (the **Second Averred Disclosure**);
 - (iv) Mr Shevlin redirected the Claimant to Jithin, the Deputy Manager, and so she repeated what she had said to Mr Shevlin to Jithin (the **Third Averred Disclosure**); and
 - (v) She had no conversation with Mr Ragunathan until almost the end of her shift on 30 January 2026, when she was called outside the building by his using hand gestures, and that Jithin and Mr Shevlin were there. The Claimant says that it during this meeting when she was dismissed, and Mr Shevlin was told by Mr Ragunathan to "*write this up*".
21. The Claimant was dismissed with immediate effect at the end of her shift on 30 January 2026.
22. The Claimant had worked three shifts for the Respondent by the time of her dismissal, and she says she was not paid for them. She also notes that she was booked in for shifts into February, which she says shows there were no concerns about her performance until after she made protected disclosures.
23. The Claimant contacted ACAS, which issued an Early Conciliation certificate on the same day – 4 February 2026.

24. The Claimant presented a Claim Form to the Tribunal on the same date (4 February 2026). On the same day the Claimant raised concerns about the Respondent with the Care Quality Commission.
25. On 5 February 2026 the Respondent was notified of the Claimant's Claim, and told that if it wished to defend that Claim it needed to submit its Response to the Tribunal by 5 March 2026. No Response was received by that time.
26. The Respondent submitted a Response Form and Grounds of Resistance on 9 March 2026, with no application for an extension of time, or any explanation for the late presentation.

Law

27. Interim relief is an emergency remedy the effect of which is to maintain the *status quo* as regards employment until the final hearing to determine the claimant's underlying claims. It is an order that the claimant continues in the respondent's employment (or is compensated as if they remain in the respondent's employment) until that final hearing. It is only available in certain prescribed circumstances, set out in section 128 of the 1996 Act. Those circumstances include where "*the reason (or if more than one the principal reason) for the dismissal*" is that the claimant has made a protected disclosure.
28. Section 128 also prescribes the procedure that must be followed in order for a claim for interim relief to be considered:

"(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."
29. Once the claimant shows that their application is within the four corners of section 128, it is for the tribunal to determine their application by either granting or dismissing it.
30. The burden of proof sits with the applicant, i.e., the claimant seeking interim relief. Section 129(1) sets out the relevant test to be applied by the tribunal considering whether to grant interim relief, which is whether:

*“it appears to the tribunal that it is **likely** that on determining the complaint to which the application relates that the tribunal will find [that complaint well-founded]”* (emphasis added).

31. The tribunal is required, on the basis of the material before it, to make a summary assessment of the chances of the claimant succeeding (*Parsons v Airplus* UKEAT/0023/16). It is not the role of the tribunal to decide the issue as if it were a final issue (*Parkins v Sodexo Ltd* [2002] IRLR 109). 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*” (*Parsons*).
32. The meaning of the word “*likely*” in section 129(1) was considered in *Taplin v C Shippam Ltd* [1978] IRLR 450, where the EAT found that it required the applicant to establish:

“that he has a ‘pretty good’ chance of succeeding in the final application to the Tribunal. In order to succeed... an applicant must achieve a higher degree of certainty in the mind of the Tribunal than that of showing that he just had a ‘reasonable’ prospect of success”,

and noted that it is “*an exceptional form of relief*”.
33. The EAT in *Ministry of Justice v Sarfraz* [2011] IRLR 562 held that the word “*likely*” does not mean “*more likely than not*” (that is, at least 51% probability), but rather “*connotes a significantly higher degree of likelihood*”.
34. This was characterised in the EAT decision of *Dandpat v University of Bath* UKEAT/0408/09 as a “*comparatively high*” test, set as such for “*good reasons of policy*” given that, “*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*”.
35. The same “*likely to succeed*” test has to be applied to all aspects of the complaint that might be in issue (*Simply Smile Manor House Ltd v Ter-Berg* [2020] ICR 570). As summarised in *Sarfraz*, where a claimant says they were unfairly dismissed for making a protected disclosure and seeks interim relief, the judge hearing that application has to decide whether it is **likely** that the tribunal at the final hearing would find four things (adapted now that the requirement to demonstrate good faith has been removed):
 - a) that the claimant had made a disclosure to his employer;
 - b) that they believed that that disclosure tended to show one or more of the things itemised at (a) to (f) under section 43B(1) of the 1996 Act;
 - c) that that belief was reasonable; and

d) that the disclosure was the principal reason for their dismissal.

Application to the complaints here

36. Taking the list enumerated in *Sarfraz* and expanding it to include the precursor questions of whether the conditions to make an application for interim relief are satisfied (and satisfied in fact – these are not questions of likelihood), the tribunal needs to address the following questions:
- a) Did the Claimant present a complaint to the employment tribunal that she has been unfairly dismissed, and the reason is one of the reasons specified in section 128(1) of the 1996 Act?
 - b) Did the Claimant make an application in the time prescribed by section 128 of the 1996 Act, i.e., within seven days of the effective date of termination?
 - c) Was the Respondent given a copy of the Claimant's application and notice of this hearing not less than seven days before the date of the hearing (section 128(4) of the 1996 Act)?
 - d) Is it likely that the Claimant will persuade the Tribunal at the final hearing that she had made one or more disclosures to her employer (section 129(1))?
 - e) Is it likely that the Claimant will persuade the Tribunal at the final hearing that she believed that that one or more of the disclosures tended to show one or more of the things itemised at (a) to (f) of section 43B(1) of the 1996 Act?
 - f) Is it likely that the Claimant will persuade the Tribunal at the final hearing that that belief was reasonable?
 - g) Is it likely that the Claimant will persuade the Tribunal at the final hearing that the disclosure(s) was/were the reason or the principal reason for her dismissal?

Did the Claimant present a complaint to the employment tribunal that she has been unfairly dismissed, and the reason is one of the reasons specified in section 128(1) of the 1996 Act?

37. The Parties agree that this condition is satisfied.

Did the Claimant present the Claim Form before the end of seven days immediately following the effective date of termination (section 128(2) of the 1996 Act)?

38. The Parties agree that this condition is satisfied.

Was the Respondent given a copy of the Claimant's application and notice of this hearing not less than seven days before the date of the hearing (section 128(4) of the 1996 Act)?

39. The Tribunal is satisfied that this condition is met. While the Respondent says that it did not receive the Claimant's application or Notice of the hearing seven days prior to the start of the hearing, the Tribunal notes that the address to which that Notice was sent was the same address as the Respondent used when sending its (late-presented) Response. The Respondent, when it sent its Response on 9 March 2026, was responding to the Claimant's Claim, which contained her interim relief application, so the Tribunal is also satisfied that the Respondent had a copy of that application not less than seven days prior to the date of this hearing.

Is it likely that the Claimant will persuade the Tribunal at the final hearing that she had made one or more disclosures to her employer (section 129(1))?

40. The Claimant relies on the First Averred Disclosure, the Second Averred Disclosure, and the Third Averred Disclosure (together, the **Averred Disclosures**).
41. There is some evidence before the Tribunal supporting the Claimant's position, in that the Claimant's letter of 31 January 2026 appealing the decision to dismiss her refer to her having raised that she required additional training and supervision. That could have been a reference to the protected disclosures she asserts, but simply saying that she needed more training and supervision would not, in itself, amount to information tending to show that the health or safety of any individual has been, is being, or is likely to be, endangered.
42. The Respondent says that it interviewed all three of the individuals to whom the Claimant says she made the Averred Disclosures, and that they say the Claimant did not raise any health and safety concerns with them. This is supported by some of the contents of the appeal outcome letter included in the Claimant's bundle.
43. The question of whether the Claimant made the Averred Disclosures is a matter that will come down to how the Tribunal assesses the evidence presented to it in the Final Hearing. The Tribunal cannot, at this stage, conclude that it is likely – in the sense of a significantly higher than 51% likelihood (as per the case of *Sarfraz*) - that the Averred Disclosures were made. For this reason, the Claimant's application for interim relief does not succeed.

Is it likely that the Claimant will persuade the Tribunal at the final hearing that she believed that that disclosure/those disclosures tended to show one or more of the things itemised at (a) to (f) of section 43B(1) of the 1996 Act?

44. The Claimant says that all three of the Averred Disclosures tended to show that the health or safety of any individual has been, is being or is likely to be endangered (i.e., (d) of section 43B(1)).

45. If the Claimant persuades the Tribunal that one or more of the three Averred Disclosures were in fact made, it is likely that the Tribunal will conclude that those disclosures tended to show that the health or safety of any individual had been, was being, or was likely to be, endangered. The residents at the care home are vulnerable persons, and if the Claimant did raise concerns that her lack of training meant safety was compromised by her being assigned tasks that she says she was assigned, it is likely that the Tribunal would find this element made out – but this is dependent on the Tribunal concluding that one or more of the Averred Disclosures were made, and the Tribunal is not satisfied at this stage that it is likely that the Tribunal at Final Hearing will conclude that one or more of those Averred Disclosures were made.

Is it likely that the Claimant will persuade the Tribunal at the final hearing that that belief was reasonable?

46. The Respondent has argued strongly that the Claimant cannot have believed in the truth of the things she says she disclosed, because of the standards it operates at the home in question, and the support given during the induction programme (which the Parties agree the Claimant was still on).
47. The clear implication from the Respondent is that the Claimant cannot have believed in the truth of the disclosures she says she made, and that if she did, that belief was not reasonable.
48. The Tribunal – having heard no evidence – cannot conclude at this stage that it is likely that the Tribunal at the Final Hearing will conclude that any belief the Claimant had that the Averred Disclosures tended to show that health or safety was being endangered was a reasonable belief for the Claimant to have.

Is it likely that the Claimant will persuade the Tribunal at the final hearing that one or more of the disclosures was the reason or the principal reason for her dismissal?

49. Each Party gives a conflicting and cogent account of the reason for dismissal – the Claimant pointing to the short timeframe between the Averred Disclosures (which she says she made) and her dismissal, and the lack of response (e.g., training or direction) to any perceived absence of compassion on her part to change her approach – as reasons supporting that her dismissal was for the sole or principal reason that she had made protected disclosures.
50. Equally, the Respondent gives an account that the Director's assessment of the Claimant is not an uncommon one, that it was made having discussed the Claimant's performance with other people as well as relying on his own observations. There is also a legitimate question to be explored about the timing of the Second Averred Disclosure and Third Averred Disclosure and whether those came before or after the decision to dismiss was taken. This will need to be tested by evidence.

51. The Tribunal cannot conclude at this stage that it is likely that the Claimant will persuade the Tribunal at the Final Hearing that any or all of the Averred Disclosures were the reason or principal reason for her dismissal.

Conclusions

52. For all of the above reasons, the Claimant's application does not succeed.

Approved by:
Employment Judge Ramsden
Date: 26 March 2026

Sent to the parties on:
Date: 28 March 2026

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