EMPLOYMENT TRIBUNALS

Claimant: Mr John Carver

Respondent: Copart UK Limited

Heard at: Birmingham Employment Tribunal

On: 22 April 2026

Before: Employment Judge Bennett

Representation:

Claimant: In person

Respondent: Mr Howells, of Counsel

JUDGMENT having been sent to the parties on 23 April 2026, and (summary) written reasons having been requested by the Claimant on 23 April 2026, the Tribunal considers it appropriate to provide full written reasons in accordance with rule 60(4E) The Employment Tribunal Procedure Rules 2024.

REASONS

Introduction

1. The hearing was to consider the Claimant's application for interim relief which was made in his ET1 claim form lodged on 12 February 2026. He alleged that his dismissal by the Respondent on 6 February 2026 was

automatically unfair under section 103A of the Employment Rights Act 1996 on the basis that the principal reason for his dismissal was that he made protected disclosures concerning health and safety matters. He brought an application seeking interim relief pending the final determination of his substantive claim.

2. For the purposes of this application, I had before me the Claimant's bundle (including Claimant's witness statement), plus a supplementary witness statement dated 19 April 2026 and written submissions dated 21 April 2026 and the ET1 claim form. I also had the Respondent's bundle and index, witness statements from Mr Paul Cashman and Ms Charlotte Allan, and the Respondent's written submissions. I decided the application on the written materials and the submissions provided.

Background

3. The Claimant was employed by the Respondent as a Health and Safety Advisor from 1 December 2025. His employment was subject to a probationary period of three months. He was line managed by Mr Paul Cashman, the Respondent's Health and Safety Manager.

4. The Claimant's case, as set out in the ET1 and his witness statements, is that during his probationary period he made a number of disclosures raising concerns about health and safety risks at the Respondent's sites and/or a failure by the Respondent to comply with legal obligations. The Claimant maintains that the disclosures, which were made in the course of his role, were in the public interest and were communicated to his employer.

5. The Claimant contends that following the disclosures his relationship with Mr Cashman deteriorated and that Mr Cashman was concerned about how the Claimant's disclosures reflected on Mr Cashman's own performance. The Claimant says that this lead Mr Cashman to criticise the Claimant's conduct, in particular regarding his communication and engagement with others within the business. The Claimant disputes that he failed to follow reasonable instructions and maintains that the issues relied upon by the Respondent were either unsupported or were themselves consequences of the disclosures he had made.

6. The Respondent's position, as set out in its submissions and the witness statements of Mr Cashman and Ms Allan, is that the Claimant did not raise protected disclosures and that in any event his dismissal was unrelated to whistleblowing. The Respondent asserts that the Claimant was dismissed

during his probationary period for repeated failures to follow reasonable management instructions and for acting outside the required line management framework.

7. The Claimant's employment was terminated on 6 February 2026. The Claimant contends that the dismissal decision was predetermined and that the stated reason was a pretext, the true and principal reason being his disclosures about health and safety failings. The Respondent denies this.

The Hearing

8. As the Claimant was unrepresented it was decided that Mr Howells, for the Respondent, would make his oral submissions first. This allowed the Claimant to respond to submissions made. The Respondent was then given the opportunity to reply to the Claimant's submissions. There was an adjournment before the Employment Judge gave an oral decision setting out her summary reasons.

List of Issues

The issues to be determined in the substantive hearing are as follows:

1. Unfair Dismissal

1.1. Was the reason or principal reason for the dismissal that the Claimant made a protected disclosure?

2. Protected Disclosure

2.1. Did the Claimant make one or more qualifying disclosures as defined in section 43B of the Employment Rights Act 1996? The Tribunal will decide:

2.1.1. What did the Claimant say or write? When? To whom?
2.1.2. Did he disclose information?
2.1.3. Did he believe the disclosure of information was made in the public interest?
2.1.4. Was that belief reasonable?
2.1.5. Did he believe it tended to show that:

…

2.1.5.1. a person had failed, was failing or was likely to fail to comply with any legal obligation;

…

2.1.5.2. the health or safety of any individual had been, was being or was likely to be endangered;

2.1.5.3. Was that belief reasonable?

3. If the Claimant made a qualifying disclosure, was it made:
3.1. to the Claimant's employer?

4. If so, it was a protected disclosure?

The Relevant Law

9. Sections 128 to 130 ERA make provision for interim relief. The relevant sections state:

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.

And

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, …

[…]

(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.

(4) For the purposes of subsection (3)(b) "terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed" means, as regards seniority, pension rights and other similar rights, that the period prior to the dismissal should be regarded as continuous with his employment following the dismissal.

(5)If the employer states that he is willing to reinstate the employee, the tribunal shall make an order to that effect.

(6)If the employer—

(a)states that he is willing to re-engage the employee in another job, and

(b)specifies the terms and conditions on which he is willing to do so,

the tribunal shall ask the employee whether he is willing to accept the job on those terms and conditions.

(7)If the employee is willing to accept the job on those terms and conditions, the tribunal shall make an order to that effect.

(8)If the employee is not willing to accept the job on those terms and conditions—

(a)where the tribunal is of the opinion that the refusal is reasonable, the tribunal shall make an order for the continuation of his contract of employment, and

(b)otherwise, the tribunal shall make no order.

(9)If on the hearing of an application for interim relief the employer—

(a)fails to attend before the tribunal, or

(b)states that he is unwilling either to reinstate or re-engage the employee as mentioned in subsection (3),

the tribunal shall make an order for the continuation of the employee's contract of employment.

10. The meaning of "likely" in the context of s129 ERA is settled. In Taplin v Shippam Ltd [1978] ICR 1068 (EAT) it was described as a "pretty good chance of success". In Ministry of Justice v Sarfraz [2011] IRLR 562 the EAT held that "likely" connotes a significantly higher degree of likelihood than the ordinary balance of probabilities. A "good arguable case" has been found to be not sufficient. In Dandpat v University of Bath UKEAT/0408/09 the policy for a comparatively high threshold was explained: interim relief irretrievably prejudices a respondent by compelling continued pay and benefits until conclusion.

11. Rule 94 of the Employment Tribunal Procedure Rules 2024 provides that the hearing should be conducted as a Preliminary Hearing within Rules 52 to 54. 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.'

12. In the case of Al Qasimi v Robinson EAT 0283/17 (a case involving a claim for automatic unfair dismissal under s103A ERA) HHJ Eady QC summarised the approach tribunals should take in interim relief applications as follows:

"By its nature, the application had to be determined expeditiously and on a summary basis. The [tribunal] had to do the best it could with such material as the parties had been able to deploy at short notice and to make as good an

assessment as it felt able. The employment judge also had to be careful to avoid making findings that might tie the hands of the [tribunal] ultimately charged with the final determination of the merits of the points raised. His task was thus very much an impressionistic one: to form a view as to how the matter looked, as to whether the claimant had a pretty good chance and was likely to make out her case, and to explain the conclusion reached on that basis; not in an over-formulistic way but giving the essential gist of his reasoning, sufficient to let the parties know why the application had succeeded or failed given the issues raised and the test that had to be applied."

13. To establish a dismissal complaint relating to protected disclosures, an employee must first prove on the balance of probabilities that he made a protected disclosure. The requirements to establish this are set out S43B of the ERA.

14. First, the employee must prove that he made a qualifying disclosure under s.43B of the ERA. A 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 six categories set out at s.43B (a-f).

15. What is relevant to establishing a qualifying disclosure is if the employee has a reasonable belief in its having happened, happening or the likelihood of its happening. A belief may still be objectively reasonable even where the belief is wrong or does not on its facts fall within one of the categories outlined about.

16. If the employee establishes that he made a qualifying disclosure, he must prove that it was a protected disclosure. This can be done in a number of ways in accordance with s.43C-43H of the ERA. A disclosure made to an employer, as set out in s.43C, is one such way in which a qualifying disclosure can be a protected disclosure.

17. If all the above is established, the employee has made a protected disclosure.

18. For an automatically unfair dismissal claim under s103A ERA to succeed, the protected disclosure must be the sole or principal reason for dismissal.

19. In a whistleblowing claim, therefore, the claimant will have to show that he or she made a protected disclosure that satisfies s43A-43H ERA in addition to establishing that that was the reason for dismissal. As the employment

tribunal noted in Doherty v Avaloq Innovation Ltd ET Case No.S/4111400/19, the claimant has to be likely to succeed on the issues of whether the putative disclosures amounted to allegations or disclosures of information, whether they demonstrated relevant breaches under s43B, and whether the claimant reasonably believed that the disclosures were in the public interest. All of these issues would have to be decided in the claimant's favour before the issue of the reason for dismissal even arose.

Findings of fact and analysis

20. In reaching a decision I have borne in mind that no oral evidence has been given on oath and no evidence has been tested by cross-examination. My task at this stage is limited to an impressionistic and summary view, assessing whether, on the material currently available, it appears likely that a tribunal determining the claim at a full merits hearing would find that the reason, or principal reason, for the Claimant's dismissal was that he made a protected disclosure.

21. This is a deliberately high threshold which requires more than a merely arguable case and more than a reasonable prospect of success. It requires a "pretty good chance" of success.

22. It is appropriate to consider each element of the statutory test separately, and to take a high level view of each asserted protected disclosure, which mirrors the structure of the submissions before me. This does not preclude me from also stepping back and assessing the case as a whole.

Disclosure

23. The first question is whether it appears likely that the Claimant will establish on the balance of probabilities at a final hearing that he made one or more protected disclosures before his dismissal.

24. The disclosures relied upon by the Claimant are set out at page 34 of his 79 page IRF bundle. As the Claimant properly accepts, only those disclosures said to pre-date the dismissal can be relevant to the causation question. I use the numbering system adopted by the Respondent in oral submissions, that is to number the alleged disclosures as set out in the Claimant's chart at page 34 from 1 to 12 chronologically.

25. Taking a high-level view, I am satisfied that in each instance relied upon by the Claimant he would be able to show that he was disclosing information

rather than merely making allegations or expressing opinions. The concept of “disclosure” is broad and is likely to be satisfied by the content and way in which each of the disclosures is expressed.

26. It is also common ground that the communications were made internally to the Respondent, such that the ‘route of disclosure’ element would be met.

Relevant failure

27. The more difficult questions concern (a) whether the Claimant is likely to establish the necessary reasonable belief that the information tended to show either a failure to comply with a legal obligation or that health or safety was likely to be endangered, and (b) whether it is likely that he reasonably believed the disclosures were made in the public interest.

28. It is not appropriate at this stage to undertake the type of granular analysis of each document that will properly be conducted at a final hearing. It is sufficient to summarise how the application fares in relation to the interim relief threshold.

29. In relation to the belief that the information tended to show relevant legal or health and safety failings, I consider that it is likely that a final tribunal would adopt a relatively generous and contextual approach.

30. In respect of PD1 I consider it likely that a tribunal would accept that the Claimant believed the absence of appropriate certification engaged duties under the Electricity at Work Regulations, and that the disclosure tended to show a potential failure to comply with those obligations.

31. In respect of PDs 2, 3, 6, 7, 9, 10, 11 and 12 (the site visit reports), notwithstanding the overall assessment of a generally ‘good standard’ in the executive summaries, the sections recording ‘non-conformities, observations and required actions’ are likely to be capable of satisfying the requirement to show health and safety failings (given that this was the objective of the Claimant’s reports) or a (potential) failure to comply with a legal obligation. I have considered each report as a whole and in the context of the Claimant’s role.

32. PD4 raises questions about who has responsibility for health and safety in certain of the Respondent’s operational areas. I consider it likely that a tribunal would find that the Claimant believed the information tended to show that ‘the health or safety of an individual is likely to be endangered’. The Claimant clearly appears to have a genuine concern about what he

perceives to be a gap in coverage of health and safety matters which may impact the safety of individuals.

33. PD5, by contrast, is a disclosure of information which is focused primarily on the link between the information sought and the Claimant's own role. It is concerned only with the Claimant's own relationship with his manager. I do not consider it likely that a tribunal would find that this disclosure satisfied the statutory test.

34. PD8 explains clearly which areas of the Respondent's operations the Claimant believes are currently in breach of health and safety legislation or carry risk of injury. This is likely to be sufficient to show that the Claimant had the necessary belief.

35. Stepping back and looking at the disclosures cumulatively as a whole, I consider that the Claimant has a pretty good chance of establishing that they show a relevant failure.

Public interest

36. The next challenge for the Claimant is the 'public interest' requirement. I remind myself that a disclosure is not excluded from protection merely because it is made pursuant to a worker's contractual or professional duties; the relevant question remains whether the worker reasonably believed that the disclosure was made in the public interest, assessed objectively and contextually. Applying the raised interim relief threshold:

37. In relation to PD1, there is nothing on the face of the document which points to a public interest dimension and this is not a natural reading of the document. While it is arguable that such a belief existed, I cannot say that a tribunal would be 'likely to find' the connection.

38. In relation to PDs 2, 3, 6, 7, 9, 10, 11 and 12, the Claimant has an arguable case. However, the background against which I must assess the reports – having been produced as part of his day-to-day role, and containing positive overall assessments - means that I am not satisfied that it appears likely that a tribunal would find that the Claimant reasonably believed these disclosures were made in the public interest rather than being simply routine internal reports made to discharge his duty to his employer.

39. In relation to PD4, this explicitly involves consideration of the health and safety of those within the Respondent's wider organisation. From the way the email is expressed it is likely that a tribunal would find that the Claimant

was not just concerned with his own position but believed disclosure was in the public interest. I find that this disclosure is likely to meet the interim relief threshold.

40. PD5 is focussed on the link between the information sought and the Claimant's own role, and as such I consider it is not likely to meet the public interest test.

41. In relation to PD8, I take into account that the induction review form was completed primarily for the Claimant's own employment purposes. While the Claimant's argument is arguable I am not satisfied that it appears likely that a tribunal would find the public interest requirement satisfied.

42. Now standing back and applying the statutory language to the disclosures viewed cumulatively, I remain unsatisfied that any except PD4 meets the interim relief threshold for the purposes of this application.

Causation

43. A central difficulty for the Claimant on this application is causation. This issue is strongly disputed by the Respondent. In weighing the parties' competing cases on causation, I am conscious that the Respondent's witness evidence and contemporaneous documents are untested, and that a final tribunal may reach a different view of their weight or credibility. I recognise that their relevance is limited to the question of whether causation presently appears likely rather than merely possible.

44. The Respondent relies on witness evidence to the effect that Mr Cashman, the manager who took the decision to dismiss, was not influenced by any protected disclosures but by alternative concerns relating to the Claimant's conduct and approach. The witness statements produced for the Respondent assert that Mr Cashman's motivation lay elsewhere and this is evidence which requires testing in cross-examination.

45. The Respondent has also produced contemporaneous documentary evidence which supports its position. In particular, I note the emails supporting the existence of a dispute about the Claimant's lack of compliance with his manager's instructions. There is also a dispute about what was said in relation to the RAMS reviews. The email chains also support the Respondent's proposition that the Claimant challenged Mr Cashman's authority and that Mr Cashman took issue with this conduct. There is also an email in which the Claimant states that he would not take

a telephone call. Taken individually and together these documents are consistent with the Respondent's case.

46. In addition, I accept the Respondent's submission that what matters is not necessarily whether the Claimant was in fact disobeying instructions, but whether Mr Cashman perceived that the Claimant was wrongly circumventing him and, on that basis, considered the Claimant's conduct a problem. That issue will require Mr Cashman's evidence to be tested in cross-examination.

47. The Claimant relies on the proximity in time between the alleged protected disclosures and his dismissal. However, many of the alleged disclosures occurred prior to the probationary review on 20 January. I note that the review was in large part positive. This conflicts with the Claimant's case somewhat, as does the fact that there is an area of concern identified in the review which supports the Respondent's account of the ongoing communication difficulties.

48. I take into account that the dismissal occurred during the probationary period after only approximately two months of employment. That is a potentially strong explanation for the absence of a more extensive or formal dismissal process and I do not consider that the absence of such a process can be interpreted as indicating one motivation rather than another on the Respondent's part.

49. The documentary material also shows other communications by the Claimant, such as the email concerning the health and safety poster, which the Claimant does not assert were protected disclosures. The documents suggest that these matters formed part of the Respondent's reasoning in its decision to dismiss. That reliance sits uneasily with the Claimant's case that the dismissal was because of protected disclosures rather than because of inappropriate communications or a failure to follow instructions as the Respondent argues.

50. The Respondent also relies on other examples of the Claimant's failure to follow instructions from his line manager, most of which predate the middle of January. Those matters are set out in Mr Cashman's witness statement and if they can be proved they will assist the Respondent in establishing its asserted reason for dismissal. As with other aspects of the case, these allegations will depend on witness evidence and findings of fact.

51. Turning to look specifically and carefully at PD4, which is the only disclosure that is capable of meeting the interim relief threshold, I do not consider that this disclosure satisfies the causation test in relation to the dismissal. PD4 is an email sent by the Claimant to Mr Cashman. The evidence suggests that the difficulty lay not in the raising of the issue itself, but in the Claimant's decision to raise the matter outside the normal line management structure and in the way he questioned authority. Mr Cashman responded to the email in some detail, addressing the Claimant's concerns. In those circumstances, it is not 'likely' that a Tribunal would conclude that this disclosure was the principal reason for the dismissal.

52. The Claimant's case depends heavily on the assertion that Mr Cashman wished to avoid scrutiny or exposure in respect of alleged inadequacies and failures to deal properly with health and safety issues. However, there is evidence of concern about the Claimant's approach from others within the Respondent's organisation. The email from Nigel Marley, and Mr Cashman's reference to a difficult conversation with Leanne May, support the Respondent's case that the issue was not the protected nature of the disclosures themselves but the way in which the Claimant was communicating.

53. All of these aspects of the case require careful examination through witness evidence. They cast serious doubt on the Claimant's position. The Respondent's case and the evidence put forward in support of it is sufficient to demonstrate that causation is unclear. In such circumstances, the Claimant's prospects of establishing that the dismissal was by reason of protected disclosures cannot be assessed with anything approaching the required level of likelihood.

54. I have considered the Claimant's application with care and am grateful for the detailed submissions provided by both parties. Interim relief is an exceptional and intrusive remedy. Parliament has set the threshold deliberately high. Applying that test, I am not satisfied that the Claimant has demonstrated a pretty good chance of succeeding on the causation issue. This is the case both when looking at each alleged protected disclosures on an individual basis and also when stepping back and considering whether the claim is likely to succeed more generally in the round. My conclusion, therefore, is that the Claimant's application for interim relief fails. I emphasise again that this decision is based on a summary and impressionistic assessment only and it does not mean that the Claimant's

substantive claim lacks merit, nor does it pre-judge the outcome of the final hearing after the evidence has been tested in full.

Employment Judge Bennett

4 May 2026