



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Roland Waters

v

DLG Logistics UK Limited

Heard at: Bury St Edmunds

On: 6,7,8,9 January 2026

Before: Employment Judge K J Palmer (sitting alone)

Appearances

For the Claimant: In person

For the Respondent: Mr Hall (Transport Manager)

JUDGMENT having been sent to the parties on 23 February 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunal Rules of Procedure 2024, the following reasons are provided:

REASONS

1. This matter came before me listed for a four day, in person hearing commencing on 6 January 2026. It has something of a history in that there had been three previous Case Management Hearings or Preliminary Hearings. One before Judge Boyes and two before me, the last of which was on 13 October 2025.
2. In that last Preliminary Hearing we were able to case manage the Claimant's claims and refine them to the point where two claims remain and those are those are set out in the list of issues in that Case Management Summary pursuant to the hearing on 13 October 2025.
3. The matter had originally been listed for a four day hearing and that listing was retained and, as it turned out, it was appropriate that it was.
4. Matters were due to commence in the Bury St Edmunds Employment Tribunal on Tuesday 6 January but unfortunately, due to difficulties with the heating system during the cold snap on the Employment Tribunals floor at Triton House, none of the Employment tribunals were habitable due to being too cold. The same applied to the Judges Chambers.

Accordingly, on that first day we were able to purloin the use of the County Court on the first floor which has had its heating updated. We were able to have a morning of Case Management where it was clear that further documents were required from the parties.

5. I also dealt with an application from the Claimant to strike out the Respondent's response on the grounds that under Rule 38 of the Employment Tribunal Rules of Procedure, the response had no reasonable prospect of success. I rejected that application as it was based largely on alleged failures by the Respondents to comply with orders but mainly on the fact that the Respondents had chosen not to adduce any oral evidence at this trial. I explained to the Claimant that there was no obligation upon the Respondents to adduce oral evidence. Mr Hall, on behalf of the Respondents, explained to me why that was the case. He said that all of the protagonists involved during the Claimant's employment and involved in his dismissal, namely, Kelly Duff, who was the then Transport Manager and Jeremy Richardson, the then MD, were no longer with the Respondent company and therefore it was impossible for him to obtain oral evidence from them. He said that the Respondent's case would be run by him on the basis of documentary evidence in a lengthy bundle which I have in front of me.
6. The Respondents did produce a very helpful and lengthy bundle and the Claimant produced a separate bundle which seemed mainly to repeat the documents in the Respondents' bundle and then add further documents that were pertinent to the Claimant's application for strike out.
7. I refused the strikeout on the grounds that the threshold had no reasonable prospect of success was not reached on the basis of the Respondent's failure to adduce oral evidence in this trial and that they were perfectly entitled to proceed on the basis of written evidence alone as explained by Mr Hall, who has not given any evidence himself but who was there to conduct the case for the respondents and explain the documents in the bundle in front of me during the course of his submissions.
8. Accordingly, we case managed the case on that first day and due to the problems experienced at Triton House with the heating system, and we resolved to convert the remainder of the hearing to Cloud Video Platform or video hearing and we were able to conduct that relatively happily where everyone's connection operated properly and the remaining three days of the hearing was conducted on that basis.
9. The Claimant was employed between 1 May 2023 as an HGV Class 1 night driver until his dismissal on 5 July 2023, so he was only employed for just over two months. He had pursued a period of early conciliation prior to presenting this claim to this Tribunal and that early conciliation proceeded between 12 July 2023 and 23 August 2023.
10. Pursuant to the Preliminary Hearing on 13 October, we were able to narrow down the Claimant's claims and they essentially fell into two categories. The first was a claim for unlawful deduction of wages that the Claimant pursued for work done between 1 May 2023 and the termination of his employment on 5 July and the second, was a claim under section

103A of the Employment Rights Act 1996, that the Claimant had been automatically unfairly dismissed on the grounds that he was dismissed pursuant to making protected disclosures under section 43B of the Employment Rights Act 1996. He alleges that the reason or if not the sole reason and principal reason for his dismissal, was the making of two protected disclosures and these protected disclosures are more particularly set out in detail in an earlier Case Management Summary before my colleague, Employment Judge Boyes and are set out at paragraphs 61 and 62 of Judge Boyes' summary and I will come back to those in more detail later.

11. So that essentially was the claim before me. I heard detailed and extensive evidence from the Claimant during the course of a full day and then I had some very helpful written submissions from both the Claimant and Mr Hall, who is representing the Respondent, both of which were excellently put together, were succinct and made submissions on the relevant points only for which I am most grateful. We then had a brief discussion yesterday where further submissions were added piecemeal and then pursuant to that I have deliberated in light of everything that I have before me.
12. Dealing with the unlawful deduction of wages claim first because that is the order in which we heard the evidence. The Claimant had clarified his claim before me on 13 October 2025 as being a claim that fell into two parts. Essentially he said that he had not been paid anything during the period of time that he worked at the Respondents and said he had been very confused about the method of payment, how he was paid and didn't think he would be paid anything at all. At that preliminary hearing we were able to isolate his claim as being a claim for £2621.80, consisting of 85.2 hours. We now know that in fact he was claiming 82.5 hours at £19.00 per hour and a further 59 hours at £17.00 per hour. The difference in hourly rates accounted for overtime that was being claimed.
13. Whilst the Claimant did not make this clear at the Preliminary Hearing on 13 October, during my initial questioning at the Full Merits Hearing, he then volunteered that he said that he had received some money and felt that it was approximately £1000.00, thus reducing his claim to £1621.80. I have to say that the evidence from the Claimant in respect of his unlawful deduction of wages claim was extremely confused. He did not seem to understand how he had been paid and what it was he was claiming. He appeared to be basing his claim entirely on an email exchange he had with Kelly Duff during the course of his employment and prior to its end and also after its end where Kelly Duff indicated that she accepted that he was due some 43 hours plus in overtime and some further overtime pay but the Claimant was extremely confused and could not articulate in any cogent sense, the nature of his unlawful deduction of wages claim. I was assisted greatly by Mr Hall who had produced in his bundle of documents, pay slips which illustrated that the Claimant had in fact received payment in four separate pay slips. These were in the bundle before me at pages 231, 232, 233 and 234. These covered the whole of the Claimant's employment period and illustrated payment of both overtime and ordinary hours.

14. The Claimant, during the course of his evidence, denied that he had ever received the money set out in those pay slips and maintained that he had not received anything during the course of his employment. Accordingly, Mr Hall was able to then refer me to documents pulled from the Respondent's system which illustrated payroll that was actually made and paid in respect of all four of those pay slips, two of those documents he had produced during the course of this hearing but the other two were in the bundle and are before me.
15. Whilst the details of the Claimant's bank account are not present in those documents, it is plain that pay slips were raised and four payments were made to the Claimant in accordance with those pay slips and therefore it is a matter of fact which was begrudgingly accepted by the Claimant that he had probably received those payments in four separate tranches in respect of the four pay slips in the sums of £2075.73, £2603.19, £1979.94 and £1467.72. Mr Hall was able to point out to me that in those pay slips the Claimant was paid accrued untaken holiday pay in the final pay slip and that any holiday pay that related to bank holidays that had occurred during the course of the Claimant's employment prior to the final pay slip, were also paid. Mr Hall went on to explain that in the first pay slip there had been a considerable payment of £500.27 in respect of overtime which he understands was an overpayment and related to overtime that the Claimant had incurred when he was employed as an agency driver and prior to him being fully employed by the Respondents and thus, in essence, the Claimant had been overpaid in that first pay slip.
16. The documents in front of me appeared to be very clear and were explained to me by Mr Hall during the course of these proceedings. The Claimant remained confused but did seem to accept that he probably had received those payments although he said he could not be absolutely certain as apparently the bank account into which he thinks they would have been paid had been closed some years ago. I make a finding of fact that on the balance of probability, from the evidence in front of me and weighing up the confused evidence of the Claimant and the documentary evidence I had in front of me, I have no doubt that those payments were duly made and that the four salary payments pursuant to those pay slips were made to the Claimant and that in fact he was even overpaid in the first of those pay slips to the tune of just over £500.00. There therefore has been no unlawful deduction of wages claim and the Claimant's claim in that respect fails.
17. Turning to the Claimant's second claim, which is a claim under the whistleblowing legislation, as it is colloquially known, more particularly section 43B of the Employment Rights Act. The Claimant pursues a claim on the basis of two disclosures made and I am just going to read out what Judge Boyes set out in her list of issues as to the nature of those two disclosures.
18. The Claimant asserts that he made the following protective disclosures:-
 - 18.1. A lorry that he had been driving had a steering defect. This was a serious and dangerous defect. He reported it to Kelly Duff and another person by telephone. He also completed a docket which

recorded the information. He does not know the exact date on which this occurred. He was told that the equipment at the company used to check the steering was out of action. His response was that this was no excuse and that they should find someone else to carry out the checks. The vehicle was later diagnosed with defective steering. It had occurred following an accident repair. It was unsafe to drive. It was dangerous as it was difficult to control. He was later sent a copy of the report confirming that the steering had subsequently been corrected.

- 18.2. The second disclosure that he relies upon is :
- 18.3. Some time later the brakes on the same truck failed. He returned one morning after a shift and the fail lock was on, which I gather, means the brakes locked up. The day driver had attempted to repair the brake lines rather than get them professionally attended to. The cheapest possible repair had been done. He reported this to Kelly Duff.
19. He then goes on to say, para 62, that the Claimant asserts that these were systemic failings. He questioned how a vehicle could be returned to service if it is not safe. This confirmed his earlier serious concerns of systemic failings and evading maintaining appropriate standards to keep vehicles safe and road legal and during my questioning of the Claimant.
20. It became clear that the second sentence in that assertion refers to the steering defect he reported.
21. The Claimant relies on section 43B(1)(d) of the Employment Rights Act 1996, a disclosure which, in the reasonable belief of a worker, is made in the public interest and tends to show that the health or safety that any individual has been, is being or is likely to be endangered, is a qualifying disclosure. Health and safety is a well understood phrase and so will usually be obvious where the subject matter of a disclosure has a potential to fall within section 43(B)(1)(d). I heard evidence from the Claimant and I had documentary evidence in front of me as to the nature of the first disclosure. Now I will deal with that first of all.
22. The first disclosure concerning the steering mechanism was made to Kelly Duff during the early part of May at or about 9 May 2023. Subsequently, a report was produced by a company that maintains the Respondent's trucks indicating that there was a defect, but that it was not a dangerous defect and that the vehicle remained roadworthy. The Claimant continued to produce dockets on a daily basis indicating that the steering was at fault. It is a matter of fact that it is an obligation upon all drivers to check their vehicle prior to embarking upon their shift and it is a matter of course that small defects and even larger defects are reported as a result of that and therefore there is nothing unusual in the fact that the Claimant was completing his docket check reports and indicating that there was a problem with the steering. That had been assessed and it was deemed not to be dangerous. Once again the Claimant's evidence was not clear and was often very confused and in his assertions before Judge Boyes, recorded in the list of issues, he repeats the fact that he indicated to the Respondents that the steering

problem was dangerous and it made the vehicle unsafe to drive. However, I have a number of documents in front of me including transcripts of messages between him and Kelly Duff where he reported the issue and the dockets were created on a daily basis indicating there was a steering fault. At no point in any of those documents before me, does the Claimant say that the vehicle was dangerous and was unsafe to drive.

23. This is at variance with what he told Employment Judge Boyes and in light of the Claimant's considerable confusion during the giving of his evidence before me I treat his evidence with a degree of caution. What is clear, however, is that he continued to tick the box in the steering docket going forward whilst still driving that vehicle during the course of the remainder of May and June. When I closely questioned the Claimant he said that he had explained in a telephone call that the vehicle was dangerous and he said that he had received a call from Kelly Duff, although he could not remember who exactly was on the call, he said there was certainly another male who was on the call which was done by a voice call and that the male was either an individual called Sam or was Jeremy Richardson the MD and he could not be certain. When I questioned him about this he said that the call had been affable but the nature of the call was just to enquire about why he keep filling in the docket, indicating that the steering was defective when he had already reported it to Kelly previously and there had been a report done indicating that it was roadworthy. He said that he had indicated that it was not and that accordingly, pursuant to that telephone conversation and he couldn't remember when that was, but we narrowed it down to a period close to the end of June 2023. He said that once he had that discussion the Respondents then made sure that the vehicle was repaired and I questioned him two or three times when he thought that was and he was clear that he said that the vehicle had subsequently been repaired prior to his dismissal on 5 July 2025.
24. The second disclosure was with respect to the failure of the brakes on the truck that he was driving, the same truck, when he was coming back into the yard the brakes failed and locked and he said that there was a bodged repair that he felt had been conducted by the day driver but he had no evidence as to who had bodged the repair. I had a photograph in front of me which showed a cable tie around the line that attaches to the rear of the cab and to the trailer which is effectively the line which operates the airbrakes and everyone concerned considered that that was probably an unhealthy way to operate the brakes on a lorry. However, he reported this and there is no evidence to suggest that it wasn't dealt with as a matter of urgency. Therefore, as I say, I treat the Claimant's evidence with caution simply because throughout these proceedings when giving his evidence he has come across as extremely confused about dates, times and events and therefore where there is conflict between his oral evidence and the documentary evidence before me, I prefer the documentary evidence before me as being the more likely record of precisely what happened on the basis of the balance of probabilities which is the test that I must apply.
25. So turning then to applying the legal tests to whether the Claimant's claim

that he can rely on two disclosures has been protected. It is worth mentioning that the bar for qualifying disclosure under 43B is not a high bar, the Claimant simply has to, on the basis of a reasonably held belief made in the public interest, show that the health or safety of any individual has been, or is likely to be endangered as a qualifying disclosure. It seems to me, therefore, that in respect of the disclosure relating to the steering and the disclosure relating to the brakes, that both of these are of a health and safety nature. Moreover, the Claimant genuinely believed that he was making a disclosure which was in the public interest and which was in respect of those health and safety issues. The question is whether it was a reasonable belief and I conclude that it was and therefore those two disclosures set out in Judge Boyes' summary, are capable of amounting to qualifying disclosures under section 43B and I conclude that they do. The issue that the Claimant then has to convince me of is whether he was dismissed as a result of them and they don't have to be the sole reason for the dismissal but they have to be the principal reason for the dismissal.

26. So turning to the dismissal, the Claimant was employed under a contract of employment, which I have in front of me which was signed by both parties on 1 May 2023. That contract of employment includes a probationary clause at 2.2 and that probationary clause reads as follows:-

"All new appointments are subject to a three month probationary period and your employment may be terminated during this period at any time in accordance with the notice periods in clause 10.1. We may, at our discretion, extend this period by a further three months. During this probationary period your performance and suitability for continued employment will be monitored.

27. So it is important to remember that it is at the behest of the employer during that probationary period to determine whether they wish the Claimant's employment to continue and there is no doubt that the Claimant was within that period when he was dismissed. He says that he received an earlier review although his memory was very sketchy on that where he said that Kelly Duff had given him an initial review and had praised him for his work at that point and, in fact, he said that his diligence in conducting his checks of the vehicle were also praised. He went on to say that the second review, which resulted in his dismissal, was conducted poorly and that is something that the Respondents themselves accept. It was impossible due to difficulties experienced by both the Claimant and Kelly Duff for there to be a face to face review at that second review on 5 July 2023 and it was conducted, we think, by video link. Kelly simply told the Claimant that he had been dismissed because he had not reached the required standard. He then received a letter the same day from the Managing Director, Mr Jeremy Richardson, which I have in front of me, which indicated that there were two reasons for his dismissal. The first was that the Claimant was too slow in undertaking his work, that he ran behind on his work and that put the subsequent driver taking over after him under pressure. The second was that he left the vehicle in a dirty state for the ensuing colleague to take over and this was a document which was sent through to the Claimant on the same day that he had the video call with Kelly Duff and was

dismissed. His evidence was that the Respondents took some time to come up with the reasons for the dismissal but I don't accept that, it was clearly on the very same day. It is the Claimant's case that this was not the real reason and that this was trumped up and invented after the event.

- 28 I have some documents in front of me which were added to the bundle by Mr Hall during the course of these proceedings and these, to me, illustrate that Kelly Duff and others working with the Claimant did genuinely have issues about the Claimant's timings and his ability to perform the job in the time available. I was also directed to a number of documents showing the Claimant's timings in terms of pick up and return from Ports, including Harwich and Coventry. Most of these occupied two or two and a half hours from him getting to the Port, picking up the load and returning out of the Port. Mr Hall tells me, although Mr Hall is not giving evidence that a usual period of time would have been a much shorter period. What must be remembered here is that the Respondents do not have to have behaved reasonably in deciding to dismiss the Claimant for that reason, they do not have to follow the proper procedure and it does not have to be the case that they were right about him being slow in picking up loads and performing his shifts or leaving the cab in a dirty state, they just had to believe it and they just have to have dismissed him for that reason, it doesn't have to be reasonable.
- 29 The Claimant did not have the requisite continuity employment to engage statutory unfair dismissal protection. I have seen some documentary evidence which supports the Respondents given reason for dismissal which leaves me to believe that, albeit that they may have been wrong in their assessment about the Claimant's performance, they genuinely believed that the Claimant was not performing properly and that that was the reason that he was dismissed. No evidence before me points, in any to the reason for dismissal being the protected disclosures made. In fact, the evidence suggests the opposite and even on the Claimant's own evidence he received a phone call when he continued to tick the box on the docket that the steering was faulty and that that phone call, to all intents and purposes, was to ascertain what needed to be done to the vehicle and that after that phone call the final repairs were carried out to the vehicle before the Claimant was dismissed.
30. That does not suggest on the balance of probabilities, that the reason for the dismissal was in any way connected to that disclosure or the disclosure concerning the brakes. The reason for the dismissal was the perception by the Respondent, more particularly Kelly Duff, and the other drivers who were involved that the Claimant was slow at doing his work and was not performing his job properly. She and Mr Richardson may have been wrong about that but that does not matter in the context of this case. The fact is that it only has to be the reason for the dismissal. I find that it was the reason and that it was not, in any way, connected to the protected disclosures made and therefore the Claimant's claim under section 103A for automatic unfair dismissal fails and is dismissed.

Approved by:

Employment Judge K J Palmer

Date: 30 April 2026

Judgment sent to the parties on
6 May 2026

For the Tribunal office

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