



EMPLOYMENT TRIBUNALS

Heard at Croydon (by video) **On** 17 August 2026

Claimant Miss Michelle Riley

Respondent Refuge

Before Employment Judge Eoin Fowell

Appearances

Claimant In Person

Respondent Liam Pike, Solicitor, PJH Law Solicitors LLP

JUDGMENT ON A PRELIMINARY ISSUE

1. The application for interim relief is dismissed.
2. There is no order for costs.

REASONS

1. The application was refused because the Tribunal did not have the jurisdiction to consider it.
2. Miss Riley brought a claim on 8 July 2026, while she was still employed. The basis of the claim was that she had suffered detriments at work for making a number of protected disclosures.
3. There are two different types of whistleblowing claim – a claim about detriments at work and a claim to have been unfairly dismissed. They are dealt with in different sections of the Employment Rights Act 1996 and different rules apply to them. For example, damages can be awarded for injury to feelings in a detriment claim, but not in a dismissal claim. There is no reason why Miss Riley, as a litigant in person, would appreciate this distinction.
4. On 20 July 2026 Miss Riley was dismissed, so at that point she was able to bring a claim of automatically unfair dismissal. (In fact, by section 111, a claim can be brought once notice is given, but that did not happen before 20 July.)

5. However, she wrote to the Tribunal that day asking “to submit an Interim Relief application in my existing Employment Tribunal claim.” There was no mention of unfair dismissal.
6. Section 128 provides that an employee “who presents a complaint to an employment tribunal that he has been unfairly dismissed ... may apply for interim relief.” Hence, there has to be an unfair dismissal claim and it has to come first.
7. It would have been open to Miss Riley to submit a second claim form on 20 July 2026, ticking the relevant box for unfair dismissal and providing the same details as in her first claim, or even referring back to it, and including a request for interim relief, but she did not know that she needed to do that, or that her first claim was not enough.
8. So, an claim for unfair dismissal was added, without objection, at today’s hearing. It is in time, since we are less than three months from the date of her dismissal.
9. However, section 128 also states, at subsection (2), that the tribunal “shall not entertain an application for interim relief” unless it is made within seven days of the dismissal. That seven day period has long passed, so an application made today (if allowed) could not be considered. And to repeat, the original application made on 20 July was not valid, since no claim for unfair dismissal had been made at that stage.
10. In the circumstances I concluded that the tribunal did not have jurisdiction to consider the application. These technicalities are not attractive, but they follow from the fact that the original claim form was submitted before the dismissal and did not include unfair dismissal.
11. The respondent nevertheless made an application for costs on the basis that the application for interim relief had had no reasonable prospects of success. (They had not been aware of the full position as set out above and assumed that there was a second claim form in the pipeline.) This is one of the grounds permitted in rule 38 of the Employment Tribunal Rules of Procedure.
12. This test was considered recently by the Employment Appeal Tribunal in the case of **Madu v Loughborough College** 2025 EAT 52. That case concerned a claim of discrimination which was unsuccessful at a final hearing. It was explained that the tribunal has to decide whether the claimant ought at the relevant time, pre-trial, to have appreciated that their claim had no reasonable prospect of success on the information then available.
13. For today’s purposes, I did not enter into the merits of the application, so the question is essentially whether Miss Riley ought to have realised that she needed to submit a second claim form on or after 20 July 2026. As already mentioned, there seems no particular reason why she should have been expected to know

this. If she had, no doubt she would have done so. In the circumstances, the test for the potential award of costs is not met.

14. Other case management directions are set out in a separate order.

Employment Judge Eoin Fowell

Date 17 August 2026

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