



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant
MR J YOUNG

AND

Respondent
JHB UK LTD

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT: BRISTOL ON: 26TH MARCH 2026

EMPLOYMENT JUDGE MR P CADNEY
(SITTING ALONE)

APPEARANCES:-

FOR THE CLAIMANT:- IN PERSON

FOR THE RESPONDENT:- MS S HORNBLOWER (COUNSEL)

JUDGMENT

The judgment of the tribunal is that:-

1. The claimant's application for interim relief pursuant s128 Employment Rights Act 1996 is dismissed.

Reasons

1. By this claim the claimant brings a claim for automatic unfair dismissal asserting that the reason (or principal reason) for his dismissal was that he had made a public interest disclosure within the meaning of s43B Employment Rights Act 1996.

2. The application before me today is for an order for interim relief in the making of a continuation of contract of employment order (s129 ERA 1996) against the respondent. The respondent resists the application on the basis that it is not “likely” (within the meaning of s129) that the tribunal which determines the complaint will make a finding that the claimant was automatically unfairly dismissed pursuant to s103A ERA 1996.
3. The tribunal can only make one of the orders set out in section 129 if it holds that it is “likely” that the tribunal which determines the complaint will find (in this case) that the reason or principal reason fell within s103A. “Likely” in the context of s129 means that there is “a good chance” that the tribunal will find in the claimant’s favour; and a good chance means something more than the balance of probabilities, indeed a significantly higher likelihood (*Ministry of Justice v Sarfraz [2011] IRLR 562 per Underhill P*). That test applies to all aspects of the claimant’s claim that may be in issue.
4. In *London City Airport v Chacko [2013] IRLR 610*, the EAT set out the approach to be taken in determining an application for interim relief:

“[23] In my judgment the correct starting point for this appeal is to fully appreciate the task which faces an employment judge on an application for interim relief. The application falls to be considered on a summary basis. The employment judge must do the best he can with such material as the parties are able to deploy by way of documents and argument in support of their respective cases. The employment judge is then required to make as good an assessment as he is promptly able of whether the claimant is likely to succeed in a claim for unfair dismissal based on one of the relevant grounds. The relevant statutory 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”. To put it in my own words, what this requires is an expeditious summary assessment by the first instance employment judge as to how the matter looks to him on the material that he has. The statutory regime thus places emphasis on how the matter appears in the swiftly convened summary hearing at first instance which must of necessity involve a far less detailed scrutiny of the respective cases of each of the parties and their evidence than will be ultimately undertaken at the full hearing of the claim.”

Evidence

5. The claimant has supplied a statement; and the respondent two statements from Ms Bethany Hodge-Brooks, and Mr James Hodge-Brooks which I have read, together with the other documents in the bundle. However, and for the avoidance of doubt I have not heard any evidence and I am not making or purporting to make any findings of fact. The matters set out below simply provide the background to enable my

decision as to whether or not to make a continuation of contract of employment order to be understood.

Background

6. The claimant was employed by the respondent from 3rd February 2025 to 6th February 2026 as a Junior Chargehand whitelining.
7. He contends that on 14th October 2025 whilst working at M4 Reading Service Station he and colleagues were exposed to serious health and safety risks as they were required to work without any traffic management or other protection from the from the M4 traffic. He raised an immediate formal grievance on 15th October 2025 (the protected disclosure relied on). He contends that between then and the grievance meeting on 28th November some colleagues no longer wished to work with him because of the whistleblowing; and suffered further detriments from the respondent itself in the reduced provision of work and /or away working which was his main source of income.
8. He returned to work following the Christmas shutdown on 5th January 2026. On 7th January 2026 he was invited to a meeting on the 8th January at which he was dismissed with one month's notice on the basis that no one wanted to work with him, during which he was placed on garden leave. He appealed but the appeal was unsuccessful.
9. The claimant contends either that the reason or principal reason for his dismissal was the grievance, or that if it is true that his colleagues refused to continue to work with him it was because of the public interest disclosure, and would be a public interest disclosure detriment in and of itself. It is accepted that if at the final hearing the latter contention was accepted that that would be likely to found a claim for public interest disclosure detriment, but would not assist the claimant for the purposes of today's application which is based on the proposition that the reason or principal for his dismissal by the respondent (as distinct from any detriment suffered from co-workers) was the making of a public interest disclosure.
10. The respondent accepts that there was an incident exposing staff to health and safety risks on 14th October 2025, in that it was intended that the respondents staff would attend the site after the client's surfacing contractor had left, with the existing traffic management system remaining in place. It was not until they were notified by the claimant on 15th October 2025 that they became aware that the surfacing contractor had removed the traffic management after they had completed their works, leaving the respondent's employees unprotected. Following the communication from the claimant the team members were stood down. The respondent contends that it took the incident extremely seriously, and its attitude to this incident in particular and safety in general is reflected in a Critical Safety Bulletin sent on 21st October 2025.

11. The respondent's position is that it was in fact, extremely grateful that the failure of the traffic management provisions were drawn to its attention by the claimant; and that there were necessarily no repercussions for the claimant.
12. There are a number of disputes of fact in relation to the claimant's account as set out above, but central to today's hearing is the question of the reason for dismissal. The respondent asserts that the reason for the claimant's dismissal was that from mid - 2025 onwards concerns were raised by operational staff about working relationships with the claimant. In July 2025 Mr Lutic (Team Lead) stated that he would prefer not to have the claimant allocated to his team; and the claimant also indicated that he would not wish to be allocated to Mr Lutic. Other concerns were expressed in August 2025 specifically by Mr Mahon; and the claimant himself that same month sent a WhatsApp message describing conflict between himself and a Skilled Operative John Thompson. The respondent is a relatively small company which has only 38 operational employees with operational teams working in small groups of two to three; and the respondents evidence is that the inability to allocate the claimant freely between teams was problematic going forward. Between October and December 2025 two further employees Gary Mounce and Ross Stripling indicated that they did not wish to work with the claimant. There was then an event on the 6th January 2026 at Race World at which Mr Hodge-Brooks observed and believed that the claimant was wilfully isolating himself from his colleagues. The decision to dismiss was based on those operational considerations and the significant problems of a breakdown of the personal relationships between the claimant and other staff members over a number of months; and was not in whole or in part because of the health and safety concerns that he had raised on the 15th October 2025.

Conclusion

13. As set out above the tribunal must consider, in determining whether or not to make a continuation of contract order, each aspect of the claim that is in dispute. The first issue is whether the claimant made a protected disclosure. The respondent accepts that the grievance of 15th October 2025 was a protected disclosure.
14. The fundamental point in issue is the reason for dismissal.

Protected Disclosures

15. The respondent accepts that the claimant's grievance amounts to a protected disclosure within the meaning of s43B ERA 1996.

Reason/ Principal Reason for Dismissal

16. The central dispute in this case is the reason for dismissal. The respondent submits:

- i) Firstly that its response to the grievance was to take the incident extremely seriously; and that it makes little or no sense to contend that it would have dismissed the claimant some three months later for having drawn it to their attention.
- ii) That the complaints about interpersonal relationships began before the incident at Reading Services and/or the grievance, and continued after it; and there is no evidential basis linking any complaint to the incident or the grievance;
- iii) That the tribunal has direct evidence from Mr Hodge- Brooks as to the reason for dismissal. Whilst that evidence may not be accepted at the final hearing there is no basis at this stage for concluding that it will not be;
- iv) As the claimant accepts, the reason given for his dismissal at the meeting is that put forward by Mr Hodge-Brooks in his witness statement; and whilst the claimant may not accept that reason it has been set out entirely consistently from the dismissal meeting, in the appeal and in the witness statement.;
- v) Put simply this is a case that will be decided primarily by whether the tribunal which hears the case ultimately accepts or rejects the respondents evidence, and that there is nothing at this stage that could properly lead to the conclusion that there is a good chance that it will be rejected; and that it follows that this case is not suitable for an order for interim relief.

17. The claimant contends primarily that there is evidence which supports the contention that the reason or principal reason for his dismissal was making the public interest disclosure, and particularly that the reason given for dismissal was not true:

- i) Firstly he contends that attitudes towards him changed after the incident and/or disclosure both from his co-workers and/or from the company itself as he set out at the time; and
- ii) In an email of 20th January 2026 Mr Hodge-Brooks as confirmed that there were no records held of complaints relating to the claimant.

18. In respect of the first point it appears to me at present that it is not possible to assess whether attitudes to the claimant from his co- workers did or did not change after the grievance and if so why. This could only be determined after a careful analysis of the evidence and it is simply not susceptible to any form of summary analysis. In respect of the assertion that there was a diminution of work following the disclosure this is dealt with in Ms Hodge-Brooks witness statement, and if and to the extent that the claimant does not accept her explanation this would need to be resolved at a final hearing with evidence. Again it is not in my judgement a contention that is susceptible to summary assessment.

19. In respect of the second, the claimant submits that if there were no complaints it follows automatically that the reason for dismissal given is not true. If it is not true the only other logical explanation is that the reason for his dismissal was making the protected disclosure. The respondent submits that this to place more weight on the email than it can bear, in that it simply means there is no formal record of a complaint held against him which would be revealed by a DSAR. It does not mean that none were made.

20. I have not heard from any witness and am making no findings of fact. There is however clearly a fundamental factual dispute between the parties as to the reason for dismissal. It is obviously possible that a future tribunal will conclude that the reason or principal reason for the claimant's dismissal was the making of the protected disclosure. However the question for me is whether here is a good chance, as defined above, that it will do so. In my judgement whilst it is possible, given the fundamental factual disputes that will need to be resolved it is not possible to conclude at this stage that the prospects are greater than possible, or that the case has crossed the threshold for making an order for interim relief.

21. It follows that the application for interim relief is dismissed.

22. Any further directions in respect of the claim will await the presentation of the respondents ET3/Response.

**Judgment Approved by EJ Cadney
Dated: 27rd March 2026**

**Judgment entered into Register
And copies sent to the parties on
28th April 2026**

**Phoebe Hancock
for Secretary of the Tribunals**