



EMPLOYMENT TRIBUNALS

Claimant: Mr Jason Springer

Respondent: Voyage 1 Ltd

Heard at: London South Croydon in public by CVP

On: 19 August 2026

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: In person

Respondent: Ms T Sandiford, Counsel

JUDGMENT

The application for an order for interim relief under the Employment Rights Act 1996 section 128 is refused.

REASONS

These reasons are provided at the request of the claimant. Whilst more formal than the oral reasons given at the hearing, they are not substantially different.

Introduction

1. Under the Employment Rights Act 1996 ("ERA 1996") section 128, where, inter alia, an employee brings a complaint of unfair dismissal by reason of making a protected disclosure(s) he can make a claim to the Employment Tribunal for interim relief. Such a claim must be made within seven days of the effective date of termination, and the ACAS Early Conciliation procedure does not have to be followed.
2. The Tribunal must then hold a hearing as soon as possible and can do so on at least seven days' notice. At the hearing the Tribunal will determine whether it is likely that the employee will succeed in his/her unfair dismissal case at the eventual hearing. If so, the Tribunal can make an order for interim relief, that is for reinstatement or re-engagement, if the respondent employer agrees or, if not, for a continuation of contract order.

The application

3. The claimant presented his claim form to the Tribunal on 28 July 2026 raising complaints of automatic unfair dismissal and detrimental treatment as a result of making protected disclosures and for health and safety reasons. The claim included an application for interim relief in respect of the unfair dismissal complaint brought under ERA 1996 sections 103A and 100(1)(a) and (b). His employment ended on 21 July 2026 and so the application for interim relief was brought within the time limit set out in ERA section 128(4).
4. Notice of the interim relief application Along with notice of today's hearing was sent to the parties on 3 August 2026.
5. The notice did indicate that the complaint of unfair dismissal would be dealt separately. However, the respondent presented a response to the claim on 14 August 2026. This has not yet been accepted by Tribunal, but the claimant has a copy. In the response, the respondent who denies the claim and seeks further and better particulars of the protected disclosures relied upon.
6. At the hearing today, the claimant accepted that he did not fall within section 100(1)(a) and (b) given that he was neither a designated health and safety officer or a health and safety representative. He explained that he had brought that claim by mistake. The hearing us focused on his I am under section 103A.

Evidence

7. I was provided with bundles of documents by each party (the claimant's bundle consisting of 30 pages, the respondent's bundle consisting of 60 pages). I will refer to the claimant's bundle as "CB" and the respondent's bundle as "RB" followed by the relevant page number where appropriate.
8. The claimant's bundle contains What is referred to as a supplementary witness statement. In addition, he provided what is referred to as a further supplementary statement.
9. The respondent provided a witness statement for Denise Howe, Regional Support Manager.
10. In addition, I was provided with a skeleton argument by Ms Sandiford.
11. Under rule 95 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013, oral evidence is not usually heard at an interim relief hearing.
12. So whilst I have read the witness statements, I take into account that they have not been subjected to cross examination and so have given them little weight where there are matters in dispute. Indeed, there are a number of areas where the witness evidence will be in dispute, and those issues would need to be determined by the Tribunal at a full hearing.

13. I do not make any findings of fact at this hearing, but it is useful to summarise the Claimant's claim under ERA section 103A, the parties' respective positions and, where appropriate, submissions.

Summary

14. The claimant was employed as a support worker at Twyford House from 5 February 2026 until 21 July 2026 when he was dismissed by the respondent because he failed his probationary period.
15. Under his contract of employment the probationary period was six months, during which time he was required to demonstrate his suitability for the position in which he was employed (RB33). His Probationary Review Form (at RB39) indicates that review meetings were scheduled to take place on various dates: in week 1, on 9 February 2026; in week 8, on 30 March 2026; in week 16, on 25 May 2026; and in week 24 on 20 July 2026.
16. The respondent provides care and support for people with learning and physical disabilities, brain injuries, autism and complex needs, including at specialist residential accommodation services. Twyford House is a Residential care home in Dover supporting up to 12 residents with learning difficulties, autism, epilepsy, mental health conditions and challenging behaviour. The respondent refers to the individuals in care as "Person we Support" or "PWS", for short.
17. The Manager of Twyford House is Cynthia Boateng, and the Regional Support Manager for the South-East is Denise Howe.
18. For the purposes of this hearing and with the agreement of the parties, I took it as read that the claimant has made protected disclosures. He identified two: one on 29 May 2026 as to concerns about a PWS; and one on 21 June 2026 about another PWS, who he refers to as Resident X. Both disclosures were made to Chloe Cooke, the Senior On Duty. I would stress that I make no findings of fact as to whether these are protected or qualifying disclosures but simply take them as read so as to move on to the central element of the claim, which is whether the claimant was dismissed because of those disclosures. However, the claimant's focus was on the disclosure regarding Resident X.
19. The claimant's case is that whilst there may have been concerns about his adherence to processes or procedures, there were no complaints about his performance prior to 21 June 2026 when he made a protected disclosure. Indeed, he described his performance as excellent. It was only after 21 June 2026 that he says that he was given adverse reports some of which were made in what he identified as unscheduled review meetings.
20. The respondent's position is that there were a series of performance meetings on 9 February, 30 March, 12 May and then on 30 June 2026, conducted by Ms Boateng which indicated cause for concern. Initially, on 30 March this related to the claimant responding badly to constructive criticism and as to some of his practices in dealing PWSs. At this point, his performance was rated as poor. On 12 May there were continued concerns

relating to the claimant's conduct and work, and his performance was rated as unacceptable.

21. The respondent's further position is that given that the issues with the claimant's conduct and work continued and that there were complaints from colleagues, it undertook an investigation (this would appear to have started on 12 July 2026 by reference to the top of RB57).
22. Ms Howe undertook the investigation and considered concerns raised by eight other members of staff which related to a number of different matters involving the claimant's conduct and performance. These were all addressed to Ms Boateng in the emails at RB52-56 and 61-65.
23. The concerns fell into 4 categories, that the claimant had: used unsafe practises to lift Resident X into their bath; been swearing at work; been using his mobile phone when he should not have been; and left another PWS unattended when they required constant one-to-one care. The claimant denied swearing at work but otherwise admitted the other three concerns.
24. Ms Howe concluded that the claimant should be dismissed because he had failed his probation. Her report is at RB66-69.
25. At a meeting with the claimant on 21 July 2026, Ms Howe notified him of her findings and of the decision to terminate his employment with immediate effect (RB70-73). She subsequently confirmed this in writing to him (at RB74-76).
26. The respondent submits that it took the concerns that the claimant raised as to Resident X seriously and dealt with them appropriately. It thanked the claimant for raising them, reported them as required as safeguarding issues, notified the CQC, the PWS's GP and next of kin, undertook internal investigations and shared lessons learned with the rest of the staff team during a staff meeting and in the communication book. This was confirmed at a number of meetings with the claimant and in the dismissal letter. In particular, the respondent refers to the notes of one meeting which records the claimant as being happy with the way that his complaint was treated (at RB48). In addition, the respondent relies on the claimant's acknowledgement that he expected that the issue regarding lifting the PWS to come up and had said should he be looking for another job (at RB60).
27. The claimant disputed that his concerns were handled appropriately stating that the next of kin of Resident X was not immediately informed of his concerns. He also disputed that the meetings held with him were scheduled probationary review meetings as alleged. His position is that he had his first meeting on 9 February which rated him as good, there was no meeting with him on 30 March or 12 May, although that was not to say that they were not simply undertaken by Ms Howell. There was a scheduled meeting for 25 May, but this did not take place. The meeting on 30 June was unscheduled. By implication, he appeared to be suggesting that the respondent did not handle the matters properly and scheduled in or slotted in a number of meetings so as to take him through to dismissal. I should add that he also said that if there were such concerns about his performance, why were they not raised sooner.

Relevant law

28. ERA 1996 section 103A provides that:

“an employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the employee made a protected disclosure.”

29. For the purposes of an interim relief hearing, the issue under ERA 1996 section 129 is whether it appears to the Tribunal that it is likely that on determining the complaint the reason or principal reason for the Claimant's dismissal was the making of a protected disclosure(s).

30. As Ms Sandiford indicated in her submissions, where the claim is for automatic unfair dismissal due to whistleblowing, there are no complex rules about who has the burden of proof. As with all unfair dismissal claims, the employer must prove the reason for dismissal. If the employee is suggesting that the employer dismissed him for whistleblowing, he has to produce some positive evidence of that, but he does not have to discharge any burden of proof. Having heard the evidence of both sides and making inferences from the primary facts, the tribunal will decide what the reason for dismissal was. If the employer is unable to prove an alternative reason, this may indicate that whistle-blowing is the true reason, but not necessarily (Kuzel v Roche Products Ltd [2008] IRLR 530, CA).

31. However, I should add that if the employee does not have sufficient length of service to claim ordinary unfair dismissal, the burden of proof lies on the employee to prove she was dismissed for whistle-blowing reasons (Ross v Eddie Stobart Ltd UKEAT/0068/13).

32. In order to determine “whether it is likely” that the claimant will succeed at a full hearing, the Employment Appeal Tribunal said in London City Airport v Chacko 2013 IRLR 610, that this requires the Tribunal to carry out an “expeditious summary assessment” as to how the matter appears on the material available, doing the best it can with the untested evidence advanced by each party. Clearly this involves less detailed scrutiny than will be undertaken at the full final hearing.

33. “Likelihood” has been interpreted to mean “a pretty good chance of success” at the full hearing - Taplin v C Shippam 1978 ICR 1068. This is intended to be greater than that at a full hearing, where the Tribunal only needs to be satisfied on the balance of probabilities that the claimant has made out his case - or 51% or better. A pretty good chance is something nearer to certainty than mere probability.

34. So, in essence, it is not for me to make findings of fact at this stage but rather to carry out a broad assessment of the evidence in order to reach a view as to whether the claimant would be likely to succeed on what is a higher test than balance of probability in his claim at a full hearing.

Conclusions

35. I conclude that the claimant has not satisfied that test (which is a very difficult one to surmount). He has not convinced me that his claim for being dismissed for making a protected disclosure is nearer to certain, rather than a possibility. He has not demonstrated at this very early stage in the proceedings, that it is likely his claim will succeed at a full hearing, nor that it has a pretty good chance of success.
36. The respondent has put forward a case that the claimant was dismissed because he failed his probationary period. This relied on matters identified both before and after the protected disclosure that he relies upon and arises from concerns raised by 8 colleagues.
37. Whilst the claimant queries how these concerns originated and asserts that they were not organically made but were solicited, given that they were all made at the same time, this only goes to making it more difficult for him to establish that the real reason or the principal reason, if more than one, is that he made a protected disclosure.
38. Whilst the claimant disputes that his concerns about Resident X were handled appropriately this does not assist in meeting the test of a pretty good chance of success.
39. Whilst the claimant points to the closeness in proximity of the protected disclosure and the dismissal as being highly indicative of real reason for the dismissal, this again is not clearcut given the respondent's position.
40. There are some key areas of dispute between the parties, such as to how the concerns were dealt with, whether the meetings took place as originally intended or were slotted in as the claimant alleges and as to the concerns raised by other members of staff and what prompted them to be made and put in writing.
41. In straightforward terms, the central dispute is as to what caused the respondent to dismiss the claimant and was this the principal reason for his dismissal.
42. It is not possible for me to reach the conclusion on summary assessment that the claimant reaches the higher standard of proof required for this application.
43. For these reasons the application is refused.

Employment Judge Tsamados
Date: 19 August 2026

Sent to the parties on:
Date: 3 September 2026