



EMPLOYMENT TRIBUNALS

Claimant

Miss K Brown

Respondent

Clarion Housing Group Limited

v

Heard at: Norwich (by CVP)

On: 10 July 2026

Before: Employment Judge M Warren

Appearances

For the Claimant: In person

For the Respondent: Mr Millington, Solicitor

JUDGMENT on Interim Relief Application having been sent to the parties on 6 August 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunal Rules of Procedure 2024, the following reasons are provided:

REASONS

Background

1. This is an application for Interim Relief by Miss Brown. She was employed by the Respondent as a Planned Investment Manager between 11 October 2021 and 7 May 2026. The Respondent is a Housing Association.
2. There was no Early Conciliation Certificate filed; that is because with this claim Miss Brown submits an application for Interim Relief. Her ET1 Claim Form was filed on 12 May 2026.
3. The heads of claim are unfair dismissal, unfair dismissal and detriment for making protected disclosures and detriment and dismissal for Trade Union activities.

Papers before me today

4. In terms of documents that I have had before me to consider this application, I had a Bundle with a written narrative at the beginning of it from Miss Brown, I had a Hearing Bundle prepared by the Respondents and there was a written statement from the dismissing officer Mr Chisnell. I also had an email with some documents attached from Miss Brown,

which was sent last night at 10:15pm. I had from Mr Millington, the Respondent's submissions for the Interim Relief Hearing.

5. Miss Brown had the opportunity of seeing those written submissions before today's hearing.

The Law

6. Section 128 of the Employment Rights Act 1996 provides as follows:

“(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 –

(ii) section 100(1)(a) and (b), 101A(1)(d), 102(1), 103 or 103A, or

(ii) paragraph 161(2) of Schedule A1 to the Trade Union Labour Relations Consolidation Act 1992 (TULCRA), or

(b) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was the one specified in the opening words of section 104F(1) and the condition in paragraph (a) or (b) of that subsection was met,

may apply to the Tribunal for interim relief.

(2) The Tribunal shall not entertain an application for interim relief unless it is presented to the Tribunal before the end of the period of seven days immediately following the effective date of termination (whether before, on or after that date).

7. Interim relief, in short, is an order that the employer reinstate the dismissed employee pending the outcome of the claim for unfair dismissal or continue to remunerate the employee in accordance with his or her contract of employment, pending the outcome of the claim for unfair dismissal.

8. Section 152 is a section which relates to dismissal on grounds related to trade union membership or activities, thus:

“(1) For the purposes of Part X of the Employment Rights Act 1996 (Unfair Dismissal) the dismissal of an employee shall be regarded as unfair if the reason for it, (or if more than one, the principal reason) was that the employee –

(a) was, or proposed to become a member of an independent trade union;

(b) had taken part, or proposed to take part, in the activities of an

independent trade union at an appropriate time;

(b)(a) ...

9. Alternative grounds for an application for interim relief can be found at Section 161 of TULCRA as follows:

“(1) An employee who presents a complaint of unfair dismissal alleging that the dismissal is unfair by virtue of Section 152 may apply to the Tribunal for interim relief.

(2) The Tribunal shall not entertain an application for interim relief unless it is presented to the Tribunal before the end of the period of seven days immediately following the effective date of termination (whether before, on or after that date).

(3) In a case where the employee relies on Section 152(1)(a)(b) or (b)(a), or in Section 152(1)(bb) otherwise than in relation to an offer made in contravention of Section 145A(1)(d) the Tribunal shall not entertain an application for interim relief unless before the end of that period there is also so presented a certificate in writing signed by an authorised official of the independent trade union of which the employee was or proposed to be a member stating –

(a) that on the date of the dismissal the employee was or proposed to become a member of the Union and

(b) that there appeared to be reasonable grounds for supposing that the reason for his dismissal (or, if more than one, the principal reason) as one alleged in the complaint.

10. Section 129(1) of the ERA provides that the Claimant must satisfy the Tribunal on an application for interim relief, that it is “likely that” the complaint will succeed:

(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 100(1)(a) and (b), 101A(1)(d), 102(1), 103 or 103A, or

(ii) paragraph 161(2) of Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992, or

(b) that the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was the one specified in the opening words of section 104F(1) and the condition in paragraph (a) or (b) of that subsection was met.

11. The expression, “likely” means, “a pretty good chance of success”, see Tapplin v Shippam Limited [1978] IRLR450.
12. In Dandpat v University of Bath UK EAT/0408/09 the then President of the EAT, Mr Justice Underhill, (as he then was) set out that he had been invited to revisit *Taplin*, declining that invitation, he said:

“We see nothing in the experience of the intervening period to suggest that it should be reconsidered. On ordinary principles we should be guided by it unless we are satisfied that it is plainly wrong. That is very far from being the case. We do in fact see good reasons of policy for setting the test comparatively high in the way in which this Tribunal did, in the case of applications for interim relief. If relief is granted the Respondent is irretrievably prejudiced because he is obliged to treat the contract as continuing and pay the Claimant until the conclusion of the proceedings. That is not a consequence that should be imposed lightly”.

13. In London City Airport v Chacko [2013] IRLR 610, Mr Recorder Luba QC said that the question is whether it appears to the tribunal that the case has a pretty good chance, based upon an expeditious summary assessment on how the case appears on the material available, doing the best it can on the untested evidence advanced by each party. Necessarily, there will be far less detailed scrutiny of the parties’ cases than would take place at the final hearing.
14. In Al Qasimi v Robinson UKEAT/0283/17/JOJ HHJ Eady QC, (as she then was) similarly described the role of the Tribunal:

‘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

15. In Ministry of Justice v Sarfraz [2011] UKEAT 0578 it was held that on an interim relief application in a whistleblowing case, for the claimant to succeed, the tribunal must find that he or she is likely to succeed on each element of such a claim. Further, that “likely” does not mean simply , “more likely than not”, (at least at 51%) it connotes a significantly higher degree of likelihood.

16. The key points to make in this case is to emphasise that in considering an application for Interim Relief, it is what is described as a summary decision, that is it is based on a brief overview of the documentation, not a deep dive. The burden for the Claimant is to satisfy me that she is likely to succeed on her claim that she was dismissed for making protected disclosures, (whistle blowing).
17. Questions of overall fairness of the process do not arise on an Interim Relief application because if a Tribunal were to find the reason for dismissal was Trade Union activities or whistle blowing, it is automatically unfair and the process followed simply does not matter.
18. If the Tribunal were to find at the Final Hearing that the reason for Miss Brown's dismissal was actually conduct, (not either of the prohibited grounds) but that the process followed was unfair, she could still succeed on her ordinary unfair dismissal claim, but that is not a matter for me today.

Trade Union Activities

19. One important point arising out of the law which I raised at the outset of today's hearing is that Section 161 of the Trade Union Labour Relations (Consolidation) Act 1992 requires that anybody applying for Interim Relief in relation to an automatic unfair dismissal for Trade Union activities, has to supply a certificate from an authorised official of their union certifying that the individual is a member of the union and that there appeared to be reasonable grounds for supposing that the reason for their dismissal was their trade union activities.
20. No such Certificate has been filed with this application and that, as I explained, excludes any ability on my part, to consider that aspect of the application.

Protected Disclosure – Whistle Blowing

21. In respect of the whistle blowing claim, is Miss Brown likely to succeed in that claim such that I should order the Respondent to reinstate her?
22. When I have asked her today to identify for me what her alleged protected disclosure is, she has referred me to page 8 in her Bundle, which is an email of 2 May 2023 to HR Admin, in which she refers to a contractor replacing a roof that did not need replacing and that same contractor charging for the removal of a window that was not removed and replacing windows that did not need replacing.
23. If that is indeed what that email says, then that would appear to be disclosure of information which is potentially in the public interest as public money is involved and the Respondent is a public body. It would also appear potentially to be a breach of a legal obligation. If a third party is seeking to carry out work at public expense which is not necessary, or charging for work that it has not done, that is likely to be a breach of a

legal obligation. But, if Miss Brown succeeds in persuading a Tribunal that the contents of this email of 2 May 2023 are indeed public interest disclosures, I could not say that she is likely to succeed in persuading a Tribunal that was the reason for her dismissal for the following reasons.

Findings and Conclusion

24. The Respondent says that the reason for dismissal was gross misconduct. In summary, because of the way that they say Miss Brown behaved towards colleagues, customers and contractors. I acknowledge when I say contractors, I am referring to the contractor about whom the alleged protected disclosure is made.
25. In a disciplinary process there was an investigation carried out, a report produced as a result, which runs to 44 pages. The investigation gathered some 11 witness statements from people complaining about Miss Brown. Some of those were the contractor concerned and people working for the contractor, but others were not, others were colleagues.
26. The decision to dismiss was taken by somebody other than the person who undertook the investigation, Mr Chisnell. There were three hearings before he took the decision to dismiss. The minutes run to 33 pages and certainly at first blush, the investigation meetings go to the matters raised in the Investigation Report.
27. It appears from the minutes Miss Brown has taken us to, that she made Mr Chisnell aware of the factual background of the protected disclosure, not that it was whistle blowing and so not the same as Mr Chisnell being aware that Miss Brown had blown the whistle in 2023 and not the same as his dismissing her because of that protected disclosure. That is the key, it has to be because of the protected disclosure: just because he knew about it does not mean that was the reason for it. What Miss Brown has made him aware of is the factual background, not the actual email itself, she does not refer to it as whistle blowing and she does not say for example, *"I dobbed these people in and this is why these allegations have been made against me..."*.
28. It is also quite a stretch to say that others, quite apart from the people at the contractors in question, conspired together to create these allegations which then convinced Mr Chisnell to dismiss.
29. The dismissal letter itself is 11 pages long and appears to be cogent and well reasoned.
30. It also has to be said that it is inherently unlikely that the reason for dismissal was something disclosed three years previously, in relation to a third party, having regard also to the nature of that disclosure.
31. For those reasons, one could not say that Miss Brown is likely to succeed in her claim. That is not the same as saying she will not succeed. At this

stage, I would have to find that she is likely to succeed before I could make an order that the Respondent re-employ her. I can't do that.

32. I would also say that had a Trade Union Certificate been provided, for these same reasons, I would have found that Miss Brown was not likely to succeed on her argument that the reason for her dismissal was her trade union activities: because of the explanation for the dismissal, the process followed by the Respondents as set out above and because, it seems to me, improbable that the employer would dismiss a trade union representative for representing people during a reorganisation process and / or in a grievance.
33. For these reasons the application for Interim Relief fails.

Approved by:

Employment Judge M Warren

Date: 6 August 2026

Sent to the parties on:

7 September 2026

For the Tribunal Office.

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