



EMPLOYMENT TRIBUNALS

Claimants: Kenneth Mitchell

Respondent: DHL eCommerce UK Ltd

**Record of a Hearing conducted by CVP
at the Employment Tribunal
Audio Recorded by CVP**

Heard at: Nottingham

Heard on: 29 July 2026

Before: Employment Judge Hutchinson (sitting alone)

Appearances:

Claimant: In Person

Respondent: Ms Catherine Urquhart, Counsel

JUDGMENT

1. The Employment Judge gave judgment as follows:

(1) The Claimant's application for interim relief fails and is dismissed.

REASONS

Background to this Hearing

1. The Claimant presented his claim to the Tribunal on 18 June 2026. He had been employed as a Line Haul Driver from 2 December 2019 until 16 June 2026 when he was dismissed for alleged gross misconduct.
2. He explained that he was a founding member and regional officer for the Worker's Voice Union and claimed that he and other members of that trade union had been subjected to disciplinary action. He claimed that the reason for his dismissal was his membership of that union and his participation in the activities of it.
3. He claimed:
 - (1) Automatic unfair dismissal under section 152(1)(a) and (b) of the Trade Union and Labour Relations Consolidation Act 1992 (TULRCA);
 - (2) A claim for ordinary unfair dismissal under section 94 of the Employment Rights Act 1996 (ERA);
 - (3) Detriment for trade union activities under section 146 TULRCA; and
 - (4) Wages.
4. He attached to the claim a trade union certificate pursuant to section 162(3) TULRCA.
5. He claimed interim relief under section 163(1) TULRCA.
6. Only his claim for automatic unfair dismissal is relevant in respect of this and I can only make an order for interim relief if he satisfies me that he is likely to be successful with that claim.
7. Originally, the interim relief hearing was listed for 16 July 2026. Unfortunately, the Respondent had not been provided with the correct notice in respect of that hearing and it had to be adjourned until today's date (29 July 2026).

Today's Hearing (29 July 2026)

8. I had before me, a bundle of documents going to 236 pages. That included a witness statement from the Claimant (pages 2-6) and his chronology of events (page 7). I also saw a witness statement prepared by Lee Davis (Mr Davis), the dismissing officer, (pages 231-236) and a letter of dismissal which is at pages 219-222.
9. Ms Urquhart had helpfully prepared written submissions with accompanying case law and I heard from her briefly, as well as from the Claimant.

Relevant Facts

10. I've not heard any evidence, and I make no findings of fact in this case, but some matters are clearly not in dispute.
11. The Claimant was employed by the Respondent as a Line Haul Night Driver from 2 December 2019 until his summary dismissal for alleged gross misconduct on 16 June 2026.
12. He was regional health and safety officer for Unite the Union for many years, which was recognised by the Respondent.
13. He formed and participated in a new union called Worker's Voice Union, not recognised by the Respondent.
14. He was suspended on 17 February 2026 on four allegations of misconduct.
15. He then attended an investigation meeting on 2 April 2026.
16. He was then invited to attend a disciplinary hearing, which was held on 2 June 2026 and conducted by Mr Davis. His decision is set out in the letter of dismissal. It can be seen from the letter of dismissal that he did not uphold all the allegations made against the Claimant. In particular, the allegation of misuse of working time in respect of his union duties.
17. He upheld four complaints against the Claimant, namely:
 - (1) A complaint of breach of health and safety procedures, namely, that on multiple occasions he had failed to sign in and/or out of sites;
 - (2) Premature disclosure of redundancy information, i.e., that he had disclosed confidential and commercially sensitive information relating to the potential redundancies, prior to formal consultation commencing;
 - (3) Unauthorised secondary employment, which related to his involvement as a regional officer for Worker's Voice. He found that the role carried responsibilities and would involve a level of activity and time commitment, which he declined to provide details of. Given his role as a professional driver, subject to health and safety and working time requirements, he found that it was reasonable for the company to seek assurance that any external commitments did not impact on his ability to meet his obligations; and

- (4) All this led to the conclusion that there had been a significant breakdown in trust and confidence. This led Mr Davis to the conclusion that the employment should be terminated without notice.
18. The Claimant has a right of appeal, and I do not know whether he is going to exercise that right.
19. A claim is made under section 152 TULRCA, which provides protection from dismissal or result of the things the employee does or proposes to do as a member of a trade union. Section 152(1) provides:
- “(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—
- (b) had taken part, or proposed to take part, in the activities of an independent trade union at an appropriate time.”
20. Where an employee has made such a claim, so long as he complies with the requirements of the Act, he can make a claim under section 161 TULRCA for interim relief.
21. Section 163(1) provides:
- “(1) If on hearing an application for interim relief it appears to the tribunal that it is likely that on determining the complaint to which the application relates that it will find that, by virtue of section 152, the complainant has been unfairly dismissed, the following provisions apply.”
22. As Ms Urquhart says, the Claimant must satisfy me that he is likely to succeed at the final hearing. She referred me to the following cases:
- ***Taplin v C Shippam Ltd [1978] ICR 1068;***
 - ***Ministry of Justice v Sarfraz [2011] UKEAT/0578/10/0702/;***
 - ***Morris v Metrolink RATP DEV Ltd [2018] EWCA Civ 1358;***
 - ***Azam v Ofqual [2015] 3WLUK 560.***
23. As the above guides me, the judge on hearing an interim relief application must carry out an, “expeditious summary assessment” of the evidence then available, “which must of necessity, involve a far less detailed scrutiny of the respective case of each of the parties and their evidence then will ultimately be undertaken at the full hearing of the claim.” This was quoted from the case ***of London City Airport Ltd v Chacko UKEAT-0013-13-LA.***

Conclusions

24. I am not satisfied that it is likely that the Claimant will establish at the final hearing that he was dismissed for the sole, or principal reason, that he was a trade union member or that he took part in trade union activities.

25. There is a clear dispute in the evidence as to what the reason, or principal reason, for the dismissal was. In this case, the Respondent says the reason was misconduct.
26. I can see that the Claimant was suspended, that there was an investigation into allegations of misconduct and then a disciplinary hearing, at which he was represented, which culminated in him being dismissed for alleged gross misconduct.
27. The allegations that the Respondent say that he was dismissed for, have little or nothing to do with his membership of the trade union, or his activities in respect thereof, other than disclosing the confidential information, which relates in fact, to the way in which he conducted his duties.
28. I am satisfied in this case, that the only way of determining the reason for the dismissal is by testing the evidence in a full Tribunal hearing and that this is not a case where it is appropriate for me to make an order for interim relief. I, therefore, decline to do so.
29. We agreed that this case will need more than one day and I, therefore, extended the hearing so that the hearing will now take place over two days at Lincoln, on 3 March 2027 and 4 March 2027.

Approved by

Employment Judge Hutchinson

Date: 8 September 2026

JUDGMENT SENT TO THE PARTIES ON:

24 September 2026

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Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing, or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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