



EMPLOYMENT TRIBUNALS

Claimant: Mr K Golojuch

Respondent: Ashley Classics Limited

Heard at: Southampton (by CVP)

On: 13 August 2026

Before: Employment Judge Yallop

REPRESENTATION:

Claimant: In person

Respondent: Mr N Henry (representative)

RESERVED JUDGMENT

The judgment of the Tribunal is as follows:

1. The Claimant's application for interim relief brought under section 128 of the Employment Rights Act 1996 (ERA) is dismissed.

REASONS

1. This was a summary procedure. As is usual in the case of applications for interim relief, I did not hear oral evidence.

Chronology based on the Claimant's account

2. The Claimant commenced employment on 2 January 2020. He worked for the Respondent as a mechanic until his dismissal on 16 July 2026. The reason given by the Respondent for the dismissal was gross misconduct.

3. On 12 February 2025, the Claimant says that he submitted a formal grievance concerning the way he was being treated at work. The Claimant accepted at the hearing that the grievance does not mention any health and safety concerns that would affect others. He explained though that he had raised serious health and safety concerns at work before and after raising his grievance. He confirmed at the hearing that he relies on the following as constituting protected disclosures:
 - a. In May or June 2024, he told Alex Tubbs (Operations Manager) and William Everett (Director) that the vehicle lifts were defective. He showed them that oil was leaking from the hydraulics.
 - b. On 13 March 2025, he told Mr Tubbs and Mr Everett that he could not replace a cambelt because he was concerned about the safety of the vehicle lifts. He asked about documentation showing they complied with health and safety requirements.
 - c. In autumn 2024, he raised a concern with Mr Tubbs and Mr Everett about rain leaking into the electrical installations.
 - d. On 5 March 2025, he told Mr Tubbs that he was being asked to do work on an airbag issue that he was not trained and competent to perform, and that had safety implications for others.
4. Shortly after submitting his grievance, the Claimant says he was suspended for approximately 16 months.
5. The Claimant says that after the grievance process concluded, disciplinary proceedings were commenced against him based on allegations relating to events that the Respondent said had occurred more than a year earlier. The Claimant says that he explained during the disciplinary process that his actions resulted from genuine health and safety concerns and his refusal to carry out safety critical repairs for which he was not qualified.
6. The Claimant says that during his employment he never received any disciplinary warning or any indication that there were concerns about his conduct or performance, and no deductions were made in respect of unworked hours. The dismissal outcome did not identify which disciplinary allegations had been upheld or why. The Claimant considers the disciplinary process was a pretext to justify his dismissal.

Respondent's case

7. This application was put in at a stage before the Respondent presented its ET3, because of the expedited procedure. However, based on its interim grounds of response and oral submissions I understand the Respondent's case is that in November 2024, Mr Tubbs noticed a change in The Claimant's attitude and behaviour. Information was gathered in relation to the Claimant's refusal to follow reasonable instructions, unauthorised absences, walking off site during working

hours and a confrontational attitude with senior staff. On 11 February 2025, the Claimant was invited to a disciplinary investigation to answer these allegations.

8. The Respondent says that before the disciplinary process could continue, on 12 February 2025 the Claimant submitted a written grievance. The disciplinary process was paused while the grievance was heard, and the Claimant was suspended whilst the processes were ongoing.
9. The Respondent says that the Claimant's grievance was heard by an independent consultant on 2 March 2026 and determined by them on 23 April 2026. The grievance was not upheld, save that it was found that the Respondent had breached their Grievance Policy by not providing an outcome promptly. Following the grievance outcome, the disciplinary investigation resumed. The Claimant attended an investigation meeting held by an independent consultant on 11 June 2026. It was recommended that the Claimant be invited to a disciplinary hearing.
10. The Respondent says that a disciplinary hearing was arranged with an independent consultant for 10 July 2026, and the Claimant ended up taking part in the process via written submissions. The consultant recommended that the Claimant be dismissed. Mr Everett therefore wrote to the Claimant on 16 July 2026 summarily dismissing him.
11. It is the Respondent's case that the Claimant was dismissed for gross misconduct based on the recommendation of independent consultants who did not know about any health and safety allegations the Claimant had made.

Proceedings

12. On 22 July 2026, the Claimant presented an ET1 that included an application for interim relief pursuant to s128 ERA on the basis that the sole or principal reason for his dismissal was that he had made a protected disclosure.

Law

Interim relief applications

13. Section 129(1) ERA provides that an application for interim relief should be granted if 'it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find' that the reason or principal reason for dismissal was one of the statutory automatically unfair reasons.
14. The Employment Appeal Tribunal has held that 'likely' in this context means that the Claimant must show that his or her case has "a pretty good chance" of success, which means that something better than likelihood on the balance of probability (i.e. better than a 51% chance): **Taplin v C Shippam Ltd [1978] ICR 1068**, as approved and followed in **London City Airport Ltd v Chacko [2013]**

IRLR 610 at para 10 and **His Highness Sheikh Bin Sadr al Qasimi v Robinson UKEAT/0283/17** (22.12.17, unreported).

15. The Tribunal must be satisfied that the Claimant is 'likely' to succeed on each necessary aspect of his or her claim (**Robinson** para 11), applying that high threshold, before relief can be granted. This means the Tribunal needs to find that it is 'likely' the Claimant made a protected disclosure within the statutory definition, and that it is 'likely' it was the sole or principal reason for dismissal.
16. The Employment Appeal Tribunal in **Chacko** gave guidance on the approach to be taken by the Tribunal at paragraph 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.'

17. The summary assessment of the material before the tribunal to determine this question is described by HHJ Eady QC in **Robinson** as a necessarily 'broad-brush approach' and 'very much an impressionistic one'.

Protected disclosures

18. The ERA provides:

'43B Disclosures qualifying for protection.

(1) In this Part a "qualifying disclosure" means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following—

(d) that the health or safety of any individual has been, is being or is likely to be endangered,

...'

19. In **Kilraine v Wandsworth London Borough Council 2018 ICR 1850**, the Court of Appeal held that, in order for a disclosure to be a 'qualifying disclosure' within the meaning of s43B(1) ERA, the disclosure had to have sufficient factual content and specificity. The Court stressed that the word 'information' in s43B(1) has to be read with the qualifying phrase 'tends to show' — i.e. the worker must reasonably believe that the information 'tends to show' that one of the relevant failures has occurred, is occurring or is likely to occur. Accordingly, for a statement or disclosure to be a qualifying disclosure, it must have sufficient factual content to be capable of tending to show one of the matters listed in s43B(1)(a)–(f).

Applications to amend

20. The power to amend is a general case management power, pursuant to Rule 30 of the Employment Tribunal Rules of Procedure 2024. This means tribunals need to consider whether granting or refusing an application to amend would be in accordance with the overriding objective. This requires a balancing exercise to be undertaken between the competing interests of the parties.
21. As set out in **Selkent Bus Co v Moore [1996] IRLR 661**, this includes considering all of the circumstances, including the nature of the amendment, whether that claim/cause of action is out of time and, if so, whether the time limit should be extended, and the timing and manner of the application. It is then necessary to balance the hardship and injustice of allowing the amendment against the injustice and hardship of refusing it (**Cocking v Sandhurst [1974] ICR 650**).
22. The consequences of a refusal should be considered i.e. what are the real practical consequences of allowing or refusing the amendment, taking into account how severe the consequences of a refusal would be and if considering allowing it, what the practical problems might be in responding, looking at the reality; this involves consideration of witnesses' memory and the availability of relevant records (**Vaughan v Modality Partnership [2021] IRLR 97**).

Conclusions

Discussion

23. It is not the role of an Employment Judge hearing an application for interim relief to make findings of fact. I am reliant on the parties to set out the material facts for each side highlighting their strongest points. There has not been any oral evidence.
24. Prior to the hearing, the Claimant had not complied with the Tribunal's Order dated 30 July 2026 requiring him to identify what disclosures he was relying on, how he met the legal test for those to be protected disclosures, and why he says

the disclosures caused his dismissal. We discussed his claim at the start of the hearing, and the Claimant provided information about his protected disclosures that differed from the information in his ET1. The ET1 only mentions the Claimant's formal grievance on 12 February 2026, which the Claimant accepts did not set out the health and safety concerns on which he seeks to rely. It was agreed that the Claimant would need to amend his claim before he could rely on the protected disclosures at paragraph 3. (a) to (d) above. As a consequence of this, in determining the interim relief application, I need to consider whether the Claimant has a pretty good chance of being permitted to amend his claim, in addition to the other parts of the legal test.

25. I have therefore considered whether there is a "pretty good chance" that:
- a. prior to the final hearing, the Tribunal will permit the Claimant to amend his claim to rely on the disclosures he now says he made about health and safety; and
 - b. the Tribunal at the final hearing will find five things: (1) that the Claimant made a disclosure to his employer; (2) that he believed that that disclosure tended to show one or more of the things itemised at (a)–(f) under s43B(1) ERA; (3) that he believed that the disclosure was made in the public interest (4) that those beliefs were reasonable; and (5) that the disclosure was the principal reason for his dismissal.

Whether the Claimant will be permitted to amend his claim

26. The Claimant was dismissed on 16 July 2026, so without an extension for ACAS Conciliation (conciliation not being required when applying only for unfair dismissal and interim relief), the deadline for his ET1 was 27 August 2026. The Claimant clarified his claim at the interim relief hearing on 13 August 2026. The Respondent has therefore received information about the Claimant's proposed claim prior to the deadline for the Claimant to submit his ET1. The proceedings are at an extremely early stage, and I therefore consider a Tribunal would be unlikely to find that there is any prejudice to the Respondent in the amendment being permitted. On the other hand, it is likely a Tribunal would consider that refusing the amendment would have a significant impact on the Claimant's ability to pursue his whistleblowing complaints. I also note that although the Claimant did not reference the specific disclosures in his ET1, he does say that he raised serious health and safety concerns, including defective vehicle lifts, inadequate documentation, unsafe working conditions and other matters affecting employees' safety. It is therefore likely that a tribunal would consider that some of the relevant facts were included in the claim. For those reasons, I consider that if the Claimant makes an application, there is a pretty good chance that the Tribunal will permit the Claimant to amend his claim to include the matters on which he now seeks to rely.

Whether disclosures were made

27. Having found that the Claimant has a pretty good chance of being permitted to amend his claim, I will apply the legal tests to the Claimant's claim as it was clarified at the hearing, i.e. based on the alleged protected disclosures set out at paragraphs 3. (a) to (d) above.
28. The claim is based on protected disclosures having been made on four occasions: In May or June 2024, when the Claimant says he informed and showed the Respondent that the vehicle lifts were defective; on 13 March 2025, when he told the Respondent that he could not replace a cambelt because he was concerned about the safety of the vehicle lifts, and asked for documentation showing they complied with health and safety requirements; in autumn 2024, when he raised a concern about rain leaking into the electrical installations; and on 5 March 2025, when he told the Respondent that he could not deal with an airbag issue because he was not competent to do that work.
29. The Respondent did not confirm its position on whether these disclosures were made, as the disclosure's had not been clarified in advance of the hearing, and Mr Henry had therefore not taken instructions on them.
30. In relation to the 2024 and 2025 disclosures about the vehicle lifts, the Claimant has provided a photo that he says shows the oil leak from the vehicle lift. He has also provided a screenshot of a conversation which he says is with his manager. The conversation is undated, but it refers to finding a solution, which suggests the Claimant remained employed, and talks about putting weight on over Christmas and to Fat Thursday being tomorrow, suggesting the conversation took place in around February. In the conversation, a message that appears to be from the manager says 'It's good to get the ramps done/replaced and tested.' This suggests the Claimant may have discussed the ramps with his manager previously. There is also a reference in the grievance-related letter dated 23 April 2026 to the Claimant having raised health and safety concerns about the vehicle lift/ramp. In addition, the disciplinary process considered the allegation that on 13 March 2025 the Claimant refused to undertake a cambelt replacement, which the Claimant says was because of the unsafe condition of the vehicle lifts. It appears from this evidence that the Claimant had concerns about the vehicle lifts prior to his dismissal and I consider there to be a pretty good chance that he will be able to persuade the Tribunal that he raised those concerns with the Respondent as he has alleged.
31. In relation to the 2024 disclosure, I consider that there is a pretty good chance that the concern raised would amount to a disclosure of information, as oil leaking from equipment is information that is clearly potentially relevant to health and safety.
32. In relation to the 2025 disclosure, I do not consider that there is a pretty good chance the Tribunal would find the Claimant provided enough factual content for

his report to amount to a disclosure of information. It appears that at this point the Claimant doubted that the lifts complied with health and safety requirements and wanted the Respondent to provide him with proof that they did. However, based on what he has said occurred, he does not appear to have raised anything specific about what he considered to be wrong with the lifts at this stage.

33. In relation to the assertion that in autumn 2024 the Claimant raised a concern about rain leaking into the electrical installations, he has provided photos and a video of rain inside the workshop and near electrical equipment. I consider it likely that the Tribunal would find that he raised a concern about leaking rainwater, and that he provided sufficient factual content for this to amount to a disclosure of information, as it is clear how water near electrical items could impact on health and safety.
34. In relation to the assertion that on 5 March 2025 the Claimant reported that he was being asked to do work on an airbag issue that he was not trained and competent to perform, and that had safety implications for others, I consider it likely that the Tribunal would find this concern was raised. The Respondent states as part of the disciplinary process that on 5 March 2025 the Claimant refused to investigate an airbag issue, and I consider it to be likely that the Tribunal would find that the Claimant told his employer why he was refusing to do the work.

Whether the Claimant believed that disclosure tended to show a relevant failure

35. I have only dealt here with the three disclosures that I have found the Claimant has a pretty good chance of establishing that he made.
36. Considering whether the Claimant believed that the disclosures tended to show the alleged failures, I bear mind that a belief for these purposes may be mistaken yet nevertheless genuinely held.
37. In relation to the 2024 concern about the vehicle lifts and the concern about the rain in the electrical equipment, I consider there to be a pretty good chance that the Tribunal would find the Claimant genuinely believed those disclosures tended to show a relevant failure. It is clear how a defective vehicle lift and rain in electrical equipment could impact on other employees of the Respondent, and any customers who visited the workshop. I therefore consider that there is a pretty good chance of the Claimant establishing his own contemporaneous belief that the disclosure he made tended to show that health or safety had been, was being or was likely to be endangered.
38. In relation to the airbag, if an issue with an airbag is not properly resolved that could obviously impact upon the driver/passenger of the car in an accident. However, the Claimant refused to undertake the airbag work on the basis that he was not competent, and he does not say that he raised concerns more generally about untrained staff at the garage undertaking such work. I therefore do not

consider that the Claimant has a pretty good chance of showing that he genuinely believed that the information he provided tended to show that health or safety had been, was being or was likely to be endangered.

Whether the Claimant believed the disclosures were made in the public interest

39. I have only dealt here with the two disclosures that I have found the Claimant has a pretty good chance of establishing he believed tended to show a relevant failure.
40. I have borne in mind that following the case of **Chesterton Global Ltd & Anor v Nurmohamed & Anor [2017] EWCA Civ 979**, this is not a particularly difficult hurdle for a Claimant to satisfy. **Chesterton** made clear that a sub-category of colleagues who are affected might be enough to satisfy the public interest requirement.
41. The Claimant disclosures were clearly about matters that might affect other workers at the garage and anyone who visited it. I therefore consider that the Claimant has a pretty good chance of establishing that he believed the disclosures were made in the public interest.

Whether the Claimant's beliefs were reasonable

42. I have only dealt here with the two alleged beliefs in a protected disclosure which I find the Claimant has a pretty good chance of establishing, i.e. those relating to the disclosure in 2024 about the vehicle lifts and the disclosure about the rainwater in electrical equipment.
43. I consider there to be a pretty good chance that the Tribunal will find it to be reasonable that the Claimant believed his disclosures tended to show a relevant failure, as the issues with equipment that the Claimant raised would endanger workers' and visitors' health and safety.
44. In relation to the public interest element, I consider that the Claimant has a pretty good chance of establishing at the final hearing that it was reasonable for him to believe there was a risk to others.

Whether the protected disclosure was the 'sole or principal' reason

45. I have only dealt here with the two alleged protected disclosures that I find the Claimant has a pretty good chance of establishing, i.e. the disclosure in 2024 about the vehicle lifts and the disclosure in autumn 2024 about the rainwater in electrical equipment.
46. The test is whether the Claimant is pretty likely to show that the sole or principal reason for his dismissal was one or both of those protected disclosures.

47. The Respondent says that it dismissed the Claimant for gross misconduct. There is evidence in the bundle that an external HR agency dealt with the disciplinary process on the Respondent's behalf. Following the investigatory meeting, a report indicates that the external agency advised that the Claimant should be invited to a disciplinary hearing. There is also evidence that the external agency advised the Claimant that if allegations 3 and/or 4 being made against him were substantiated, his employment may be summarily terminated for gross misconduct. Those allegations were the Claimant repeatedly left the workplace without authorisation, abandoned allocated duties and left work incomplete (including leaving the workplace following disagreements regarding allocated work, requiring others to undertake it), and that he repeatedly challenged and refused to accept the authority of management.
48. It is clear that there were times when the Claimant refused to do work that was allocated to him. The Claimant accepts that he refused to do the work on the cambelt in March 2025 and that he refused to deal with an airbag issue in March 2025. These incidents were discussed with the Claimant during the disciplinary process in relation to disciplinary allegation 3 (i.e. as conduct which the Respondent considered to be gross misconduct).
49. The dismissal letter from Mr Everett does not give any reasons for the dismissal. The Respondent's case is that the external third party recommended to Mr Everett that there was sufficient evidence to dismiss the Claimant for gross misconduct. This will be a matter on which evidence will need to be considered at the final hearing.
50. I consider that the Claimant is going to find it difficult to show that the sole or principal reason for his dismissal was one or both of the protected disclosures. The disclosures were made in 2024, and there was a substantial delay between those disclosures and the Claimant's suspension in February 2025 and his subsequent dismissal on 16 July 2026. An external third party was involved in the disciplinary process and there is evidence that before the disciplinary hearing they considered there was sufficient to warn the Claimant that he may be dismissed for gross misconduct. The Claimant also accepts that he refused to do some of the work that was allocated to him (although he says his refusal was justified on health and safety grounds). Given these circumstances and based on the information I currently have, I do not consider it to be pretty likely that the Claimant will show that the reason or principal reason for his dismissal was his protected disclosures in 2024.

Conclusion

51. I do not find at this stage, based on the material before me, that I can conclude the Claimant has a pretty good chance of showing that the principal reason for his dismissal was a protected disclosure.

52. The Claimant's application for interim relief is therefore dismissed.

**Employment Judge Yallop
6 September 2026**

Judgment sent to the parties on
29 September 2026

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