



EMPLOYMENT TRIBUNALS

Claimant: Mr George Grundy
Respondent: Whartons Trading Ltd
On: 1 September 2026
Before: Employment Judge Ahmed (sitting alone)
At: Leicester (via CVP)

Representation

Claimant: Ms Donna Bayliss (lay representative)
Respondent: Mr Adrian Barnes of counsel

JUDGMENT

JUDGMENT having been sent to the parties on 13 September 2026 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunals Procedure Rules 2024, the following reasons are provided.

REASONS

1. This hearing was listed to determine the Claimant's application for interim relief.
2. The Claimant was employed by the Respondent as a Trainee Fishmonger from 22 September 2022 to 6 August 2026. The Claimant presented his claim to the Tribunal on 13 August 2026 within 7 days of the effective date of termination, as required.
3. At this hearing the Claimant was represented by Ms Donna Bayliss, a lay representative. The Respondent was represented by Mr Adrian Barnes of counsel.
4. The time for the Respondent to lodge a Response has not yet expired and so there are no formal Grounds of Resistance at this stage. I was however presented with a short bundle of documents prepared by the Respondent's representatives and a witness statement from Mr Lee Wharton, a Director of the Respondent. I did not

take oral evidence from either party at this hearing. The details of the case are taken from oral submissions, the Claimant's claim form and the documents in the bundle for this hearing. The hearing took place by video. Reasonable adjustments were made for the Claimant.

5. The Claimant's complaints in these proceedings are of:

5.1 Detriment for having made protected disclosures (whistleblowing);

5.2 Automatic unfair dismissal for whistleblowing;

5.3 'Ordinary' unfair dismissal.

6. The Respondent is a small business consisting of two Directors, Mr Lee Wharton and his wife. The business only operates for part of the week. The Claimant was either the only or only one of two employees in the business.

7. The Claimant relies upon several protected disclosures in support of his automatic unfair dismissal complaint but in particular he relies upon a disclosure on the day of his dismissal, 6 August 2026, when he contacted the Police to say that his employer had committed an act of theft.

8. The background to the dismissal is in dispute and in setting out the matters below I make it clear I do not make any findings of fact for a future hearing. The Respondent has a long-term customer and personal friend of the parties by the name of Mr Paul Gregory. Mr Gregory can source music concert tickets. Mr Wharton asked Mr Gregory if he could obtain Taylor Swift tickets for his daughter. Mr Gregory said he could not but did have some tickets to the Bloodstock Festival which he could give for free. Mr Wharton was not keen to go to the Bloodstock Festival but he knew the Claimant would be interested. Mr Wharton thought he may be able to use the tickets as a way of motivating the Claimant, whose attendance and punctuality had been a problem. He would also allow the Claimant to attend without the days of the Festival being taken as annual leave. However, in the days and weeks leading to the Festival the Claimant's attendance and punctuality had not improved so Mr Wharton changed his mind.

9. It appears from one of the messages in the bundle that Mr Wharton may at one point have told the Claimant that he had deleted the email along with the tickets. On 3 August the Claimant sent a message to say that if the relevant email had been deleted then Mr Wharton could find it in the recycle bin and recover it. The Claimant said it would be 'the decent thing to do'.

10. On 4 August 2026, the Claimant sent a message to Mr Wharton in which he said:

'What about the Bloodstock tickets? This is giving me anxiety. I need to make preparations and arrange travel'.

11. There then appear to be some missing messages and the subsequent developments are not clear. However, there must have been some severe disagreement because on 5 August 2026 Mr Wharton wrote a strongly worded email

to the Claimant to say that no annual leave had been authorised for 6, 7 or 8 August 2026 (the days of the Festival) and that if the Claimant did not attend work it would be treated as gross misconduct and grounds for instant dismissal.

12. There is then an undated message from 'Donna' (which I presume is a reference to Ms Donna Bayliss, the Claimant's representative) to Mr Wharton asking for the tickets for Bloodstock to be sent to the Claimant that day which were she says were 'gifted to him'. There is no recorded reply from Mr Wharton.

13. This is followed by a message from the Claimant to Mr Wharton which is also undated but from the context it was sent on 6 August and is as follows:

"Further to my previous communication regarding the Bloodstock Festival tickets explicitly issued and registered in my name by Paul Gregory, I am writing to issue a final demand for their release.

As you are fully aware the festival begins today, 6 August 2026 and your continued withholding of my personal property leaves me with no alternative but to escalate the matter.

To be absolutely clear these tickets were gifted to me individually and bear my name. Holding digital assets belonging to an employee without lawful justification constitutes unlawful conversion of property and theft. If the tickets are not transferred to my personal email address...I will immediately report this incident to the Police as a criminal act of theft of property."

14. It does not appear that the tickets were released to the Claimant who then telephoned the Police on 6 August to report a criminal act. He was informed that it was a civil matter and would not be taken any further at that stage. The Claimant has since asked the Police to reconsider.

15. Later the same day the Claimant was dismissed. Neither party has adduced any evidence as to whether the Police contacted Mr Wharton about the allegation of theft and so it is not clear if Mr Wharton was aware of the disclosure.

THE LAW

16. Section 129 of the Employment Rights Act 1996 ("ERA 1996") provides:

"(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.....

17. Section 103A of the Employment Rights Act 1996 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"

18. Section 43A of ERA 1996 states:

"In this Act a "protected disclosure" means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H."

19. Section 43B of ERA 1996 (so far as is relevant) states:

(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—

(a) that a criminal offence has been committed, is being committed or is likely to be committed;

20. To succeed with a whistleblowing claim a Claimant must therefore show they have made a qualifying disclosure as defined above. This comprises the following elements:

20.1 there must be a disclosure of ‘information’;

20.2 the Claimant must genuinely believe the disclosure was in the public interest; and,

20.3 the Claimant must have a reasonable belief that information showed one or more of the matters set out in section 43B.

21. Section 129 ERA 1996 makes it clear that the tribunal may grant interim relief if it is “*likely*” that the Claimant will be able to establish that the reason for dismissal is for making protected disclosures.

22. The leading case on the meaning of “likely” is **Taplin v C. Shippam Ltd** [1978] ICR 1068. In that case Slynn J, giving the judgment of the EAT (at paragraphs 21 and 23) said:

“The Tribunal should ask itself whether the applicant has established that he has a ‘pretty good’ chance of succeeding in the final application to the Tribunal.”

23. In **Ministry of Justice v Sarfraz** [2011] IRLR 562 (EAT) Underhill P said that ‘*likely*’ does not mean simply “more likely than not” but connotes a significantly higher degree of likelihood, that is, “something nearer to certainty than mere probability”.

24. The ‘likely to succeed’ test applies to all elements of the claim, not just the principal reason for the dismissal - see **Hancock v Ter-Berg** (UKEAT/0138/19).

25. The burden rests on the Claimant to prove facts from which the Tribunal can conclude that he or she made a protected disclosure. If the Claimant establishes that a protected disclosure was made, the Tribunal must then determine whether the protected disclosure was the reason or principal reason for dismissal.

CONCLUSIONS

26. Interim relief hearings are not a full consideration of the merits nor are they a mini-trial. Evidence is not generally taken. I note that there is a significant dispute on the facts but disputed facts are not in themselves a reason to refuse interim relief. The Tribunal must consider whether the Claimant is ‘likely’ to be able to establish all of the elements on which he must succeed at the final hearing.

27. I will deal firstly with any disclosures prior to 6 August. There is very little information about them. It is not clear what the dates of these disclosures were or what information, if any, was disclosed and whether it was in the public interest. The claim form merely says there were grievances concerning payment of the national minimum wage and 'unlawful cancellation of annual leave'. That alone does not establish a disclosure.

28. On the information presently before me it cannot be said that it is likely the Claimant will be able to establish that he made any disclosure prior to 6 August which had any connection with the dismissal.

29. The Claimant's main argument rests on the disclosure made on 6 August 2026.

30. I have considerable doubt as to whether the Claimant will be able to establish that any disclosure on 6 August amounted to a 'protected disclosure'. It is possible he may be able to establish a disclosure of 'information' but was it information tending to show the commission of a criminal offence?

31. On the documentary evidence provided for this hearing there is nothing to suggest that the Claimant was the legal owner of the Bloodstock Festival tickets other than a mere assertion by the Claimant, unsupported by any evidence, that the tickets were in his name. It is difficult to see why the tickets would have been sent to Mr Gregory's email if they were gifted to the Claimant. The Claimant's subsequent message referring to Mr Wharton doing 'the decent thing' also suggests that, at that stage, the Claimant may not have regarded himself as being the legal owner of the tickets.

32. At no stage prior to 6 August did the Claimant claim legal ownership. It seems to me much more likely that the tickets were given to Mr Wharton who promised to give them to the Claimant but then changed his mind.

33. Is it likely that the Claimant will be able to establish that he had a reasonable belief that he was reporting a criminal act? It seems to me that the threat to the Police was an attempt to intimidate and extract the tickets from Mr Wharton when all other avenues had been explored and failed. On the information before me, I do not consider it likely that the Claimant will be able to establish a reasonable belief that information disclosed tended to show the commission of a criminal offence.

34. The Claimant is also likely to have difficulty in showing causation, that is to say whether it was the protected disclosure or disclosures that were the reason or principal reason for the dismissal. It is a high threshold. It is quite clear that there was a history of antagonism between the parties over payslips, attendance/punctuality issues and payment of the national minimum wage. The ticket issue appears to have brought these matters to a head. All of that suggests that there were other factors in play.

35. For those reasons I cannot say that the Claimant has a 'pretty good chance of success' on his complaint of automatic unfair dismissal by reason of whistleblowing. The application for interim relief is therefore dismissed.

Approved by:

Employment Judge Ahmed

Date: 17 September 2026

JUDGMENT SENT TO THE PARTIES ON

28/09/2026

J. Woolley
FOR THE TRIBUNAL OFFICE

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>