Case Number: 6022834/2026

EMPLOYMENT TRIBUNALS

Claimant: **Kosisochukwu Ekwueme**

Respondent: **Abbeyfield The Dales Limited**

Heard at: **CVP – Public hearing**
On: **29th September 2026**

Before: **Employment Judge Bridge**

Representation
Claimant: In person
Respondent: Mr Peel (counsel)

JUDGMENT

1. **The claim for interim relief is refused.**

REASONS

Background

1. The claimant, Kosisochukwu Ekwueme, was employed by the Respondent, Abbeyfield The Dales Limited, as a Senior Night Care Assistant/Senior Care Assistant at Fern House, Bingley, from 7 April 2026 until her dismissal, which took effect on 17 June 2026. Following her dismissal, the claimant presented an ET1 to the Employment Tribunal on 20 June 2026. In that claim she advances complaints including automatic unfair dismissal on whistleblowing grounds pursuant to section 103A Employment Rights Act 1996, detriment for having made protected disclosures, race discrimination, victimisation and wrongful dismissal. The ET1 also contained an application for interim relief under sections 128 and 129 Employment Rights Act 1996, the claimant contending that the reason, or principal reason, for her dismissal was that she had made protected disclosures concerning medication discrepancies and safeguarding issues within the respondent's care home. The Tribunal accepted the interim relief application and listed it for hearing on 29 September 2026.

Issues

2. Whether the claimant has a pretty good chance of success in establishing that the reason, or principal reason for her dismissal was that she made protected disclosures. The Tribunal will consider whether the claimant has a pretty good chance of showing each of the following:

   (a) She made a disclosure of information to the respondent.
   (b) She believed the disclosure amounted to one or more of the matters set out in section 43B of the Employment Rights Act 1996. The claimant says this is a health and safety breach and/or a breach of legal obligation.
   (c) That the belief was reasonable.
   (d) That the disclosure was made in the public interest.
   (e) That the protected disclosure was the reason, or the principal reason, for dismissal.

3. If so, whether to order that the claimant is reinstated or reengaged in employment and;

4. If not whether to order that the continuation of the contract until final determination of the claim

The hearing

5. The Tribunal had before it the claimant's interim relief bundle comprising 155 pages, the respondent's interim relief bundle comprising 83 pages, and the witness statement of Lesley Armistead dated 22 September 2026 comprising 3 pages. The claimant gave oral submissions in support of her application and the respondent relied upon the witness statement of Lesley Armistead together with oral submissions made by Callum Peel, Counsel. At the conclusion of the hearing, I reserved my decision.

The Relevant Law

Section 128 ERA 1996

6. An employee may apply for interim relief where they present a complaint of unfair dismissal and allege that the reason, or principal reason, for dismissal was one of the protected reasons specified in section 128, including dismissal for making a protected disclosure under section 103A ERA 1996.
7. The application must be presented within seven days of the effective date of termination. The Tribunal must determine the application as soon as practicable.

Section 129 ERA 1996

8. The Tribunal must determine whether it appears likely that, at the final hearing, it will find that the reason or principal reason for the dismissal was one of the protected reasons relied upon.
9. If so, it must consider reinstatement or re-engagement and, if neither is accepted by the parties, make an order for continuation of the contract of employment.

Section 130 ERA 1996

10. An order for continuation of employment requires the contract to continue for the purposes of pay, benefits, seniority, pension rights and continuity of employment pending determination of the proceedings.

Taplin v C Shippam Ltd [1978] IRLR 450

11. The relevant question is whether the claimant has a "pretty good chance of success" at the final hearing.

Woolenberg v Global Gaming Ventures (Leeds) Ltd EAT/0053/18/DA

12. The "pretty good chance" test connotes a significantly higher degree of likelihood than the ordinary civil standard of proof. The Tribunal is not asking whether the claimant is more likely than not to succeed but whether there is a substantially stronger prospect than that.

Dandpat v University of Bath EAT/0408/09

13. The threshold is deliberately set at a comparatively high level for policy reasons. It is something closer to certainty than mere probability.

Ministry of Justice v Sarfraz [2011] IRLR 562 (EAT)

14. In a whistleblowing case the Tribunal must be satisfied that the claimant has a pretty good chance of establishing:

    - That they made a disclosure.
    - That they believed the disclosure tended to show one or more matters within section 43B ERA.
    - That the belief was reasonable.
    - That the disclosure was made in the public interest.
    - That the protected disclosure was the reason, or principal reason, for dismissal.

Al Qasimi v Robinson EAT/0283/1/JOJ

15. The Tribunal is not making final findings of fact. It is carrying out an expeditious and summary assessment of the merits based upon the material available at short notice. The exercise is described as "impressionistic". The Judge must avoid making findings that might tie the hands of the Tribunal at the final hearing.

Simply Smile Manor House Ltd and others v Ter-Berg [2020] ICR 570 (EAT)

16. The Tribunal is entitled to consider not only the protected disclosure issue but all essential ingredients necessary for success. Thus, if status, employee status, or dismissal itself is disputed, the Tribunal must assess whether the claimant has a pretty good chance of succeeding on those matters as well.

Parsons v Airplus International Ltd EAT/0023/16

17. Where the employer contends that dismissal was because of the manner in which concerns were raised, rather than because disclosures were made, the Tribunal is not required at the interim relief stage to resolve complex factual or legal disputes. A claimant may have a good arguable case without meeting the higher "pretty good chance" threshold.

Duffy v BXTR 3 Ltd (t/a House of Gods) [2026] EAT 119

18. The existence of factual disputes does not of itself justify refusal of interim relief. The Tribunal must still engage with the evidence and perform the required assessment. However, where the employer has identified an apparently strong alternative reason for dismissal unrelated to protected disclosures, it will ordinarily be difficult for a claimant to demonstrate the requisite "pretty good chance" of success unless there is clear evidence that the asserted reason is not genuine.

Cairns v Lewis's Home Retail Ltd ET Case No. 2401649/19

19. The Tribunal found a pretty good chance that the claimant's email constituted a protected disclosure and that it prompted dismissal. However, interim relief was refused because the Tribunal was not satisfied the claimant had a pretty good chance of proving the disclosure was made in the public interest. All elements of the claim had to satisfy the higher threshold.

Summary of the law

20. The claimant must show a pretty good chance of establishing each ingredient of the section 103A claim, including that a protected disclosure was made and, crucially, that it was the reason or principal reason for dismissal. The exercise is a summary assessment on limited evidence, not a determination of disputed facts, but the threshold is deliberately set at a high level and is substantially more demanding than merely establishing an arguable case.

Conclusions and analysis on the issues

Whether the claimant disclosed information

21. For the purpose of this application, I am satisfied that the claimant has a pretty good chance of establishing that she disclosed information to the respondent.

22. In the bundles provided to me for this hearing there are a number of emails.

23. The claimant relies upon a series of emails sent between May and June 2026 which she contends constituted protected disclosures. Those disclosures comprised:

    a. An email dated 9 May 2026 to Lesley Armistead reporting a medication discrepancy.

    b. An email dated 19 May 2026 to Lesley Armistead reporting a discrepancy in the Loperamide medication count for Apartment 13.

    c. An email dated 25 May 2026 to Lesley Armistead, copied to Sophie McGhie and Sehfran Sajid, raising concerns regarding unsigned medication records and seeking clarification regarding the proper procedure to be followed.

    d. An email dated 29 May 2026 to Lesley Armistead, copied to others, reporting a discrepancy in the Codeine count for Apartment 29.

    e. An email dated 8 June 2026 to Lesley Armistead reporting discrepancies in medication records relating to Lansoprazole.

    f. An email dated 12 June 2026 to Lesley Armistead, copied to management colleagues, reporting an unsecured medication cupboard and a further Codeine discrepancy.

    g. An email dated 12 June 2026 reporting a safeguarding concern that Sara Shemwell had been observed asleep whilst on duty and responsible for residents.

    h. Later on 12 June 2026, Sehfran Sajid acknowledged receipt of that report, requested supporting evidence, and indicated that a meeting would be arranged to discuss the matter. The claimant subsequently provided photographs and other material.

    i. An email dated 15 June 2026 to Lesley Armistead, copied to management colleagues, reporting a discrepancy involving Gabapentin medication.

24. On the material before me, the respondent appears not to dispute this element of the claim.

25. The emails have been provided so there is clear evidence of the words spoken and sufficient substance and detail that the claimant has a good chance of showing she has disclosed information.

That the disclosure tended to show either a health and safety breach or breach of legal obligation

26. I am satisfied on the material before me that the claimant has a pretty good chance of establishing that the disclosure tended to show either a health and safety breach or a breach of legal obligation. Most of the disclosures relate to unaccounted medications many of which are opioid drugs. One disclosure relates to a drug cabinet being left open within the respondent premises which is a care home with vulnerable residents. One of the disclosures concerned an allegation that a senior member of staff had been asleep whilst on duty and responsible for vulnerable residents.

27. It is inherent in the nature of these emails that disclosure tends to show health and safety and legal obligation breaches. Again, from submissions made by the respondent and the statement of the respondent witness I anticipate this element of the claim is unlikely to be disputed.

That the belief was reasonable

28. The claimant is a senior member of care staff. The concern shown about the disclosures is apparent within the emails where she sent them.

29. The risks involved with missing medication open cabinets and sleeping members of staff are plainly apparent it is therefore likely that the claimant has a pretty good chance of establishing her belief was reasonable.

That disclosure was made in the public interest

30. The claimant cited concerns with vulnerable residents in the respondent's care home. The concerns did not relate at all to personal grievances at work. Though she has subsequently raised issues in the way she was personally treated. None of these issues are included in the pleaded disclosures.

31. The disclosures relate to safety of residents. In these circumstances the claimant has a pretty good chance of establishing the disclosures were made in the public interest.

The protected disclosure was the reason, or principal reason for dismissal

32. This is the issue upon which the application ultimately turns. Whilst I have concluded that the claimant has a pretty good chance of establishing that she made protected disclosures, that those disclosures tended to show matters falling within section 43B ERA 1996, that her belief was reasonable and that the disclosures were made in the public interest, she must also establish a pretty good chance of showing that the protected disclosures were the reason, or principal reason, for her dismissal.

33. The claimant relies principally upon the chronology of events. She points to the fact that she made her final disclosure on 15 June 2026 and was suspended later the same day. She further relies upon the fact that the disciplinary process then moved very rapidly, culminating in her dismissal only days later. The claimant also relies upon what she contends were procedural irregularities, including the conversion of a meeting described as investigatory into a disciplinary hearing on the same day.

34. I accept that the chronology is capable of supporting an inference that the disclosures and the dismissal may have been connected. The close temporal proximity between the final disclosure, the suspension and the dismissal is a factor a Tribunal may ultimately regard as significant. Equally, it is apparent from the material before me that the individuals involved in the disciplinary process had knowledge of the disclosures relied upon by the claimant.

35. However, the respondent advances a clear and specific alternative explanation for the dismissal. The respondent's case is that the claimant was dismissed for two conduct matters: first, the manner in which she dealt with the issue concerning Sara Shemwell, including the use of a personal mobile telephone, the taking of photographs and the delay in reporting the matter; and secondly, the handling of the incident involving a resident who was taken to hospital following a fall and whose family were not informed. Those reasons were set out contemporaneously in the dismissal process and are repeated in the witness statement of Lesley Armistead. Whether those reasons were correct, fair or genuinely held are matters for the final hearing. However, on the material presently available, they are specific allegations supported by identical factual matters rather than explanations developed retrospectively for the purpose of these proceedings. That significantly weakens the claimant's ability, at this stage, to demonstrate a pretty good chance that the protected disclosures were the reason or principal reason for dismissal.

36. There is substantial dispute between the parties as to those matters. The claimant contends that she acted appropriately, that she complied with the respondent's safeguarding obligations, that there was no requirement for her to notify family members personally, and that the allegations relied upon by the respondent are either unsupported by policy or factually incorrect. The respondent disputes each of those contentions.

37. I have also taken into account the additional matters relied upon by the claimant in support of her contention that the protected disclosures were the real reason for dismissal. Those matters include the close proximity in time between the final disclosure, the suspension and the dismissal; the fact that individuals involved in the disciplinary process had knowledge of the disclosures; the claimant's contention that the investigatory meeting was converted into a disciplinary hearing without prior notice; and her assertion that comments made during the disciplinary process demonstrate that the outcome had already been predetermined. I accept that those matters are capable of supporting an inference favourable to the claimant and may ultimately prove significant at a final hearing.

However, viewed cumulatively and on the limited material presently available, they do not enable me to conclude that the claimant has a pretty good chance of establishing that the protected disclosures were the reason, or principal reason, for dismissal, particularly in circumstances where the respondent has advanced contemporaneously recorded conduct allegations which cannot presently be dismissed as lacking credibility or as amounting to a mere pretext.

38. Determining those disputes will require findings regarding policies, training, workplace practices, the claimant's responsibilities as a senior member of staff, the actions of the relevant managers and, ultimately, the actual reason why the decision-maker dismissed the claimant. Those are matters which are likely to depend heavily upon oral evidence and cross-examination at the final hearing.

39. The Tribunal's task at this stage is not to determine who is correct. Nor is it sufficient that the claimant establishes an arguable case or even a strong case. The statutory test requires a significantly higher threshold. The Tribunal must be satisfied that the claimant has a pretty good chance of establishing at the final hearing that the protected disclosures were the reason, or principal reason, for dismissal.

40. Having considered all of the material currently available, I am not satisfied that the respondent's stated conduct reasons can presently be dismissed as lacking credibility or as plainly amounting to a pretext. Equally, I am not in a position to conclude that the claimant has a pretty good chance of demonstrating that those stated reasons were not genuine and that the real reason for dismissal was the making of protected disclosures.

41. I therefore conclude that, whilst the claimant plainly has a case which is properly arguable and which may succeed following determination of the disputed factual issues at a final hearing, she has not satisfied the substantially higher threshold required for interim relief. In particular, I am not satisfied that she has shown a pretty good chance of establishing that the reason, or principal reason, for her dismissal was the making of protected disclosures.

42. The application for interim relief must therefore be refused.

Approved by:

Employment Judge Bridge

19 October 2026

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/