EMPLOYMENT TRIBUNALS

Claimant: Michelle Fitton

Respondent: Authentic Care Services Limited

Heard: by Cloud Video Platform **On:** 26 October 2026

Before: Employment Judge Ayre, sitting alone

Representation

Claimant: In person
Respondent: Did not attend and was not represented.

JUDGMENT

1. The claimant's application for interim relief is well founded and succeeds.

2. The Tribunal makes an order for continuation of the claimant's contract of employment. The contract of employment between the parties remains in force in accordance with section 130(1) of the Employment Rights Act 1996 such that:

    a. All pay, pension and benefits owed to the claimant under the terms of her contract remain payable from 16 October 2026 until the date upon which her claim is finally determined; and

    b. The claimant's continuous employment continues from the beginning of her employment with the respondent until the date upon which her claim is finally determined.

3. The respondent is ordered to pay to the claimant the sum of **£2,400** (less such sums as the respondent is required by law to deduct in respect of tax and national insurance contributions) on **12 November 2026** and very four weeks thereafter until the determination of the claim.

4. The respondent is also ordered to make pension contributions for the claimant at the same level as it made during the course of her employment.

REASONS

Background

1. On 12 October 2026 the claimant presented a claim to the Employment Tribunal. In the claim the claimant asserts that she was employed by the respondent as Deputy Manager from 29 June 2026 until 9 October 2026. She claims that she was dismissed because she made protected disclosures and makes an application for interim relief.

2. By letter dated 13 October 2026 the claim was served on the respondent, together with Notice of today's hearing, at the following address: 11, Avenue Road, Doncaster, DN2 4AH. A search of the Companies House register of companies today reveals the existence of an active company by the name of Authentic Care Services Limited whose registered office address is 11 Avenue Road, Doncaster, South Yorkshire, England, DN2 4AH.

3. On 15 October 2026 the respondent sent an email to the claimant and the Tribunal from the following email address: anchorhouse11@hotmail.com. The subject of the email was: "*Re: Case 6041749/2026 – Contact Details for Interim Relief Video Hearing – 26 October 2026*".

4. On 23 October 2026 Peninsula wrote to the Employment Tribunal giving the correct case number for this claim, stating that they had been appointed to represent the respondent and asking that the ET1 and Notice of Claim be sent to them as a matter of urgency. They also provided their internal reference number for the case. As this email was only received by the Tribunal on the working day before this hearing, it has not yet been responded to.

The hearing

5. The respondent did not attend the hearing today and was not represented. The clerk telephoned Peninsula and quoted the reference number given on the email of 23 October 2026. The clerk was transferred between departments but was not able to speak to anyone with responsibility for the claim. The start of the hearing was delayed until 10.25 am. The hearing then continued until approximately 12.20pm. At no point did anyone attend the hearing on behalf of the respondent.

6. I am satisfied, on the material before me, that Notice of today's hearing has been properly served on the respondent at its registered office address. I am also satisfied that the respondent was aware of today's hearing, as demonstrated by the email it sent to the Tribunal on 15 October which specifically referred to today's hearing in the subject line.

7. The claimant was present at the hearing, had prepared a bundle for it, and wished to proceed. In the circumstances I decided to proceed with the hearing in the absence of the respondent, in accordance with Rule 47 of The Employment Tribunal Procedure Rules 2024.

8. On 13 October 2026 the claimant wrote to the Tribunal stating that she was currently signed off work but indicating that she would be attending today's hearing. At the start of the hearing, I asked the claimant whether she was well enough to proceed with the hearing and whether she required any adjustments to enable her to participate. The claimant said that she was well enough to proceed and did not require any adjustments.

9. In advance of the hearing the claimant sent to the Tribunal a bundle of documents running to 61 pages.

10. I heard oral submissions from the claimant and then retired to make my decision.

The Law

11. Section 128 of the Employment Rights Act 1996 ("the ERA") contains the right for employees to apply for interim relief:

"*(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 –
(i) section 100(1)(a) and (b), 101A(d), 102(1), 103 or 103A….

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) The tribunal shall determine the application for interim relief as soon as practicable after receiving the application.

(4) The tribunal shall give to the employer not later than seven days before the date of the hearing a copy of the application together with notice of the date, time and place of the hearing.

(5) the tribunal shall not exercise any power it has of postponing the hearing or an application for interim relief except where it is satisfied that special circumstances exist which justify it in doing so. "

12. Section 129 of the ERA sets out the procedure to be followed where an application is made for interim relief, and includes the following:

"*(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(d), 102(1), 103 or 103A….

(2) The tribunal shall announce its findings and explain to both parties (if present) –
(a) what powers the tribunal may exercise on the application, and
(b) in what circumstances it will exercise them…..

(9) If on the hearing of an application for interim relief the employer –
(a) fails to attend before the tribunal, or
(b) states that he is unwilling either to reinstate or re-engage the employee as mentioned in subsection (3),
the tribunal shall make an order for the continuation of the employee's contract of employment."

13. Rule 94 of The Employment Tribunal Procedure Rules 2024 provides that when a Tribunal hears an application for interim relief "*rules 52 to 54 (preliminary hearings) apply to the hearing and the Tribunal must not hear oral evidence unless it directs otherwise.*"

14. Interim relief is "*an exceptional form of relief granted pending a determination of a complaint of unfair* dismissal" (***Taplin v C Shippam Limited [1978] ICR 1068***). The test for the Tribunal in an application for interim relief is whether it appears likely that, when deciding the unfair dismissal claim, the Tribunal will find that the reason or, if more than one, the principal reason for dismissal, was the prohibited reason, in this case the alleged protected disclosure(s).

15. 'Likely' has been held to mean 'a pretty good chance' (***Taplin v C Shippam Limited [1978] ICR 1068*** and approved in ***Raja v The Secretary of State for Justice UKEAT/0634/09*** and ***Dandpat v University of Bath and another UKEAT/0408/09***) or 'having a case that looks like a winner' (***Derby Daily Telegraph Limited v Foss EAT/631/91***).

16. The Tribunal must apply the same test to all the elements of the automatic unfair dismissal claim that are disputed by the respondent (***Hancock v Ter-Berg and another UKEAT/0318/19***).

17. In ***Ministry of Justice v Sarfraz [2011] IRLR 562***, Mr Justice Underhill noted that interim relief could only be awarded if it was likely that, at the final hearing, a Tribunal would find five things, namely that:

    1. The claimant made a disclosure to his employer;
    2. The claimant believed that the disclosure tended to show one or more of the matters within section 43B(1) of the Employment Rights Act 1996;

3. The claimant's belief was reasonable;
4. The disclosure was made in good faith; and
5. The disclosure was the principal reason for the claimant's dismissal.

18. The burden of proof is on the claimant in an interim relief application, and the Tribunal should not grant interim relief if it considers that it is probable that the reason or principal reason for the dismissal is not the protected disclosure (***Bombardier Aerospace (t/a Short Brothers Plc) v McConnell [2017] NICA 2017*** and ***McConnell v Bombardier Aerospace (No 2) [2009] IRLR 201***).

19. In ***London City Airport Ltd v Chacko [2013] IRLR 610*** the Employment Appeal Tribunal found that the Tribunal is required, during an interim relief hearing, to make as good an assessment as it can of whether the claimant is likely to succeed, but that this will involve a far less detailed examination of the parties' cases than will take place at the final hearing of the claim. In ***Al Qasimis v Robinson EAT 0283/17*** HHJ Eady summarised the task of an Employment Judge dealing with an interim relief application as follows:

"*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 given the issues raised and the test that had to be applied.* "

20. Where there is a significant conflict of evidence in relation to key issues, it is open to the Tribunal to conclude that the conflict cannot be resolved at an interim relief hearing, and to refuse the application for interim relief for that reason. The Tribunal should not, however, treat the existence of factual disputes as automatically determinative of the interim relief application without making any assessment of the evidence before it (***Duffy v BXTR 3 Ltd (t/a House of Gods) 2026 EAT 119***). In ***Duffy*** the EAT held that the Tribunal should have carried out a summary assessment of the material available to it.

21. In June 2026 the Presidents of the Employment Tribunals in England and Wales and Scotland issued Presidential Guidance on applications for interim relief. I have considered that Guidance when reaching my decision on the claimant's application, and in particular the following provision:

"*24.…**the tribunal must not hear oral evidence unless it directs otherwise**. It is highly unusual for a tribunal to direct that it will hear oral evidence. This is because the tribunal is not making factual findings. Instead, it is carrying out an expeditious*

summary assessment of the prospects of success based on the material which has been deployed at short notice: Al Qasimi v Robinson EAT/0283/17….
….
39. ….the claimant will need to show that there is a pretty good chance the tribunal will find that the protected disclosure caused the dismissal. The employer usually disputes this. If an employer identifies an apparently good reason for dismissing the claimant that is unrelated to a protected disclosure, this is usually something the tribunal will need to decide at the final hearing on the basis of full evidence. It is difficult to see how the claimant will show that they have a pretty good chance of success, unless they have clear evidence that was not the real reason.

40. ….the more hurdles the claimant faces in order to succeed with the claim, the more difficult it will be to persuade the tribunal that there is a pretty good chance of success. For example…. a dispute about whether the claimant's resignation should be construed as a dismissal, will make it even less likely that interim relief will be granted…."

Conclusions

22. In determining the claimant's application for interim relief, the question I have had to consider is whether the claimant is likely to succeed in establishing, at the final hearing of this claim, that she made protected disclosures and that the reason or principal reason for her dismissal was the disclosures. The application does not require me to make any findings of fact at this stage, and I do not do so. It will be for the Tribunal at the final hearing to make findings of fact on the evidence before it. What I am required to do today to determine the claimant's application for interim relief is to make a broad assessment on the material before me.

23. During today's hearing the claimant asserted that she made the following protected disclosures:

    1. On 30 June 2026 in a written communication to the CQC about medication governance;
    2. On 23 July 2026 in a written disclosure to the CQC about the serious injury of a resident;
    3. On 17 September 2026 in a written disclosure to the CQC about a pressure sore of a resident;
    4. On 25 September 2026 orally and in writing to the respondent's directors, regarding safeguarding issues;
    5. On 1 October 2026 in writing to the CQC raising concerns about medication, the treatment of staff, care provided to residents, resident safety and governance; and
    6. On 2 October 2026 in a formal grievance to the directors headed "*Formal Grievance – Directors' Conduct, Whistleblowing Concerns and My Employment Position*"

24. The claimant told the Tribunal today that at the time she made the alleged disclosures, she believed that she was disclosing information about the health and

safety of residents, and that the disclosures were made in the interests of the residents rather than the claimant's personal interests. During today's hearing the claimant demonstrated a genuine concern for the welfare of the respondent's residents.

25. In a written statement contained within the bundle for today's hearing, the claimant, to her credit, acknowledged that the respondent may not have seen or read the 1 October disclosure before dismissing her. She wrote that her case on knowledge of the alleged protected disclosures relies principally on what she said directly to them on 25 September and in her subsequent grievance.

26. The material before the Tribunal today included an email which the claimant says was sent to the respondent on 25 September 2026 following an incident during which she alleges that one of the directors, Dr Barooq Barkat, raised his voice at her. The email contains, amongst other things, the following comment: "*I cannot work in an environment where I feel frightened of the consequences of raising a genuine safeguarding or regulatory concern*". This apparently contemporaneous document appears to demonstrate a genuine concern at the potential consequences for the claimant of raising concerns. It is consistent with the submissions made by the claimant during today's hearing.

27. The claimant also produced, in her bundle of documents, a copy of an email which she says was her grievance, in which she appears to raise concerns about "*what may happen to me as a consequence of the safeguarding and whistleblowing concerns that have now been raised*". The email also contains reference to the public interest, to statutory protections for whistleblowers, and asks for confirmation that she will not be subjected to any detriment because of the matters she had raised.

28. The materials before me today also include what appear to be a grievance outcome letter, which the claimant says was sent to her at 19.29 on 9 October 2026, following a grievance hearing that the claimant did not attend, and an email that the claimant says was sent just 18 minutes later, at 19.47 pm on 9 October headed "*Outcome of probationary review – termination of employment*". The second email appears to terminate the claimant's employment with immediate effect, purportedly because of the claimant's conduct, performance and suitability for the role. The claimant told the Tribunal that she had not been informed in advance that there would be a probationary review on 9 October. There was no material before me today to suggest that any concerns about performance, conduct or suitability were raised previously by the respondent

29. In support of her application for interim relief the claimant submitted that her disclosures about medication governance, safeguarding and resident safety were the principal reason for her dismissal. She relied upon a serious disagreement about safeguarding that she says took place on 25 September, on contemporaneous emails and on the fact that it appears that she was dismissed within minutes of being sent her grievance outcome.

30. The claimant also submitted that throughout the course of her employment Dr Barkat told the claimant that he did not want her to report anything to the CQC, and that as a result she had made reports and only told him about them afterwards, so that he could not prevent her making the reports.

31. I accept the submissions of the claimant today, which are not challenged by the respondent, and which appear to be supported by the materials in the bundle.

32. Although there appears, from the material before me, to be an alternative view of events which is taken by the respondent, the majority of the material before me, and the claimant's submissions, overwhelmingly suggest that the claimant is likely to be able to establish at the final hearing both that she made protected disclosures and that the principal reason for her dismissal was the disclosures.

33. I recognise that the burden of proof in an interim relief application is a high one, and that it falls to the claimant to discharge it. I am satisfied, on the material before me today, and taking account of the claimant's submissions, that her claim that she made protected disclosures and was dismissed for making those disclosures is likely to succeed at the final hearing.

34. The claimant's application for interim relief is well founded and succeeds.

35. The claimant told me that she does not wish to be reinstated or re-engaged by the respondent. In addition, the provisions of section 129(9) of the Employment Rights Act 1996 require me to make an Order for continuation of the claimant's contract of employment, as the respondent did not attend today's hearing.

36. I therefore make an Order for the continuation of the claimant's contract of employment until the determination of the claimant's unfair dismissal complaint. The claimant told the Tribunal that she was dismissed on 9 October 2026 and paid a week's pay in lieu of notice. The respondent is therefore ordered to pay the claimant her normal salary of £2,400 (less tax and national insurance contributions) every four weeks and make normal pension contributions on her behalf for the period from 16 October 2026 until the determination of her claim. The first payment must be made on or before 12 November 2026 and thereafter the respondent must make payments every four weeks.

Approved by:
Employment Judge Ayre
26 October 2026
JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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