EMPLOYMENT TRIBUNALS

Claimant: **Mr Roland Waters**

Respondent: **Movianto UK Limited**

Heard at: **Norwich (heard remotely via video link)**

On: **28 August 2026**

Before: **Employment Judge Mr A. Spencer**

Representation:

Claimant: In person

Respondent: Mr. A. Willoughby (counsel)

FULL REASONS

JUDGMENT with full reasons was given at the hearing on **28 August 2026** and written full reasons were requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

Introduction

1. This was the hearing of the claimant's application for interim relief.

2. I took into account the following documents:

   (a) The respondent's 63 page hearing bundle. This included documents relied on by both parties, a witness statement from Alun Hobday on behalf of the respondent and a summary of the respondent's grounds for opposing the application for interim relief;
   (b) the claimant's skeleton argument;
   (c) the claimant's four page submission for interim relief;
   (d) the claimant's urgent submission in reply to the respondent's witness statement and summary of grounds of resistance
   (e) The claimant's "Exhibit Bundle" of 158 pages.
   (f) The documents on the tribunal's electronic file.
   (g) The recent judgment of the EAT in *Duffy v BXTR 3 Ltd (t/a House of*

Gods).

(h) The Presidential Guidance : Applications for Interim Relief which has effect from 22 June 2026 ("the Presidential Guidance").

3. There were issues with the volume of documents and the chaotic way they were presented. However, both parties agreed that I could limit my consideration to the documents referred to above.

4. I heard oral submissions from both parties.

5. I did not hear evidence from witnesses.

6. There were technical difficulties with the remote hearing which delayed matters. The claimant repeatedly dropped out of the video link in the first 20 minutes of the hearing. However, the problem was resolved when the claimant connected via a different device.

Applicable law

7. Interim relief is an emergency remedy available to employees who claim to have been dismissed for one of a number of inadmissible reasons. It is a procedure which, in appropriate cases, preserves the status quo pending the full hearing of the unfair dismissal complaint.

8. If interim relief is granted, the tribunal may make orders for either:

   (a) the employer to reinstate the claimant or to re-engage them in an equivalent role, or

   (b) a "continuation of contract order" which has the effect of keeping the employee suspended on full pay until the full hearing.

9. An Interim relief application may only be made if certain conditions are met.

10. The respondent did not challenge that such conditions were met.

11. The necessary conditions are met in that:

    (a) The claimant asserts for the purposes of s128 Employment Rights Act 1996 ("ERA") that he was unfairly dismissed and that the reason (or if more than one the principal reason) for dismissal is a reason within section 103A ERA. In particular, the claimant asserts that he was dismissed because he made protected disclosures (i.e. he says he was dismissed for "whistleblowing");

    (b) The claim form (which includes the application for interim relief) was presented on 20 July 2026. This is within the relevant seven day time limit immediately following the effective date of termination of 14 July 2026;

    (c) This is not a case where the claimant must produce a certificate from an authorised union official covering the requirements in section 161(3) Trade Union and Labour Relations (Consolidation) Act 1992 ("TULCRA"). The claimant does not assert that is dismissal was a trade

union dismissal under section 152 TULCRA;

(d) The claim was presented without first obtaining an ACAS early conciliation certificate. However, the exemption under regulation 3(1)(d) of the Employment Tribunals (Early Conciliation: Exemption and Rules of Procedure) Regulations 2014 is engaged in this case.

12. The tribunal has jurisdiction to consider the application for interim relief.

13. With regard to the legal test for interim relief, I can do no better than quote paragraphs 18 - 20 of the Presidential Guidance:

"18. *The legal test the tribunal applies when deciding whether to order interim relief is set out at section 129(1) ERA and section 163(1) TULRCA. This is whether "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 the reason relied upon by the claimant.*

19. This has long been interpreted as requiring the tribunal to determine whether the claimant has a "pretty good chance of success" at the final hearing: Taplin v C Shippam Ltd [1978] ICR 1068. This test is not satisfied if the tribunal simply thinks it is more likely than not that the claim will succeed: Wollenberg v Global Gaming Ventures (Leeds) Ltd EAT/0053/18. The test is set comparatively high for reasons of policy: Dandpat v University of Bath EAT/0408/09. It is something nearer to certainty than mere probability.

20. In assessing whether there is a pretty good chance of success, the tribunal will take into account all elements of the claim, not just the reason for dismissal. This may include preliminary matters such as whether the claimant was an employee (if this is disputed), whether the claimant's resignation should be construed as a dismissal (a "constructive" dismissal), and whether a protected disclosure has been made: Ministry of Justice v Sarfraz [2011] IRLR 562. "

14. The claimant referred me to the very recent decision of the Employment Appeal Tribunal in *Duffy v BXTR 3 Ltd (t/a House of Gods) [2026] EAT 119.* This case was in support of the following proposition in his skeleton argument:

"*where, as here, the respondent has identified an apparently good reason for dismissal unrelated to protected disclosure, the question is whether the claimant has clear evidence that this was not the real reason*".

15. The summary at the beginning of the judgment in *Duffy* confirms that the reason the appeal succeeded was partly because:

"…. In this case the tribunal treated the mere existence of factual disputes as determinative, and did not make an expeditious, summary assessment of the issues as they were required to do".

16. The decision in *Duffy* does not alter the test for determining interim relief applications. However, it reminds the tribunal that if conflicts of evidence are identified, the tribunal's task is to undertake a summary assessment of the likelihood of those conflicts being resolved in the claimant's favour at a full hearing.

The claim and response

17. The claimant was employed as a Class 1 Night Trunk Driver by the respondent from 9 July 2024 until 14 July 2026.

18. There is no dispute that the claimant was employed by of the respondent. Nor is there any dispute that he was dismissed on 14 July 2026.

19. At section 8.2 of the claim form complaints are identified as follows:

    (a) unfair dismissal;
    (b) disability discrimination;
    (c) discrimination (religion or belief);
    (d) whistleblowing;
    (e) notice pay;
    (f) holiday pay;
    (g) arrears of pay;
    (h) other (unspecified) payments;
    (i) "*other claims (ACAS breach data breach H&S detriment, trust and confidence*"

20. The claimant was notified on 29 July 2026 that his claims of interim relief, unfair dismissal, and whistleblowing were not rejected. However, his claims of disability and religious discrimination, holiday and arrears of pay, and breach of contract were rejected because he had not complied with the requirement at rule 12(1)(c) of the Employment Tribunal Rules of Procedure, as the claim form does not contain an early conciliation number.

21. Limited particulars of the claims are given at section 8.2 of the claim form. However, the claimant states that he "*brings a claim for interim relief because the dismissal was for making protected disclosures and the claimant has a strongly arguable case that the principal reason for dismissal was whistleblowing*".

22. No particulars of the alleged protected disclosures are given in the claim form other than stating "*the claimant made multiple protected disclosures concerning safety critical vehicle defects, brake failure, PMI defects, AEBS faults, steering issues, procedural irregularities and conflicts of interest*".

23. No particulars are given as to when, how and to whom the disclosures were made other than stating "*these disclosures were made to management, HR, and senior leadership*".

24. Some further detail of the alleged protected disclosures is given in the claimant's four page submission for interim relief document. Again, detail is lacking but it is relatively clear that the claimant's case is that:

    (a) in the period from March 2025 to May 2026 the claimant raised what he describes as "*safety critical concerns*" regarding defects to the respondent's vehicles. These included dangerous brakes, steering instability and defective repairs. The claimant does not say how and to whom these disclosures were made. I understand that the claimant's case is that such concerns were raised with the respondent's management;

    (b) The claimant also says that in 2025 he "*made protected disclosures after refusing to comply with unsafe and unlawful instructions from depot manager Hale*". What those disclosures were, how and to whom they

were made is unclear.

(c) The claimant sent emails to the respondent's management on 9 and 13 July 2026. Both emails refer to health and safety concerns. The e-mail dated 13 July 2026 is expressly stated by the claimant as being "*my formal protected disclosure submitted under the Public Interest Disclosure Act 1998*".

25. The claimant alleges that he was dismissed for making such protected disclosures.

26. The respondent has yet to present a response to the claim. However, they have provided a summary of their grounds of resistance. Their case will be:

(a) they do not admit that the claimant made protected disclosures which comply with the relevant statutory requirements. They point to the lack of clarity in the claim as to precisely what was said, when, to whom and whether the content of such reports meets the statutory test;

(b) they assert that the reason for dismissal related entirely to the claimant's misconduct. They say that the fact that he may have made protective disclosures formed no part of the decision to dismiss.

27. The documents in the hearing bundle include:

(a) a letter to the claimant dated 7 October 2025 in which he is given a first written disciplinary warning in relation to misconduct described as "*Avoidable accident that occurred on the 12th of July 2025 at Haverhill depot*". It is clear that the warning followed an investigation and a disciplinary hearing. David Hale (Distribution Centre Manager) made the disciplinary decision;

(b) a letter to the claimant dated 25 March 2026 in which he is given a final written warning in respect of two disciplinary allegations described as "*inappropriate sexual and religious comment and an inappropriate comment about a female colleague*". Again, it is clear that the warning followed an investigation and a disciplinary meeting. David Hunter (Distribution Centre Manager) made the disciplinary decision;

(c) A letter to the claimant dated 14 July 2026 which confirms the claimant's summary dismissal for various disciplinary issues. These include damage to a company vehicle, failure to follow the company's safe system of work resulting in a personal injury, driving a company vehicle with a known vehicle defect, failing to follow the company's defect reporting procedure, inaccurately completing the vehicle walkaround check sheets and an avoidable vehicle collision within the Haverhill depot yard. Again, it is clear from the letter that this followed a disciplinary investigation and hearing. Alun Hobday (Distribution Centre Manager) made the disciplinary decision;

28. Mr Hobday chaired the disciplinary hearing which led to the claimant's dismissal. He took the decision to dismiss the claimant. His evidence will be that he dismissed the claimant because of the matters detailed in his letter dated 14 July 2026. As to the claimant's assertion that the dismissal was by

reason of whistleblowing, Mr Hobday will say "*I did not, at any stage, consider dismissing the claimant because he had reported vehicle defects or raised safety concerns. To the extent that I was aware that he had raised such matters, that was background. It was not part of the reason why I decided to dismiss him. I did not discuss any alleged whistleblowing with HR or with anyone else as a reason for dismissal.*" It is clear that the evidence he will give at the final hearing is that the claimant's protected disclosures had no part in the decision to dismiss him.

29. The claimant disputes this. He says that the real reason for dismissal was because he made protected disclosures (i.e. because he was a whistleblower).

30. There will be a clear conflict of evidence on this crucial point.

Discussion/Conclusion

31. To apply the test for interim relief, the tribunal must undertake a summary assessment of the merits of the proposed claim. It must weigh up the available evidence to assess the likelihood of conflicts of evidence being resolved in the claimant's favour at a full hearing.

32. In this case, the essential elements of successful claim at a full hearing are twofold. The tribunal must find that:

    (a) the claimant made protected disclosures to the relevant persons (i.e. he must show that he had legal protection as a whistleblower); and

    (b) the fact that he made those protected disclosures was the reason (or the principal reason) for dismissal.

33. The first part requires the tribunal to find at a full hearing:

    (1) that the claimant made his disclosure to the employer;
    (2) that he believed that disclosure tended to show one or more of the things itemised in section 43B(1)(a)-(f) ERA;
    (3) that his belief was reasonable;
    (4) that the disclosure was made in good faith.

34. The respondent does not concede that the claimant made protected disclosures. However, the respondent does not substantively challenge this either. The main focus of their submissions is the issue of causation (i.e. whether the reason for dismissal was because of the claimant's protected disclosures).

35. The claimant's case as to his protected disclosures will require significant further clarification. Currently, his claim form lacks crucial detail as to precisely what disclosures he says were made, when they were made and to whom. However, there are various documents in the claimant's bundle such as defect notes, emails and driver walk round check records in which the claimant clearly raises safety concerns about defects to the respondent's vehicles. There are numerous such reports. They relate to health and safety issues. They were made to the respondent. The emails from July 2026 that I have referred to are expressed to be protected

disclosures and also clearly refer to health and safety concerns. I find that on the evidence before me, the claimant stands a “pretty good chance” of succeeding in showing that he made protected disclosures.

36. The key issue in this case is likely to be whether the reason for dismissal (or if more than one, the principal reason) was that the claimant made such protected disclosures. There is a key conflict of evidence on this point:

    (a) the claimant says that he was dismissed because he made the protected disclosures;

    (b) the respondent disputes this and asserts that there were unrelated disciplinary reasons for dismissal.

37. The tribunal’s decision on this point will be heavily dependent upon hearing oral witness evidence at the full hearing after seeing that evidence tested under cross examination.

38. *Duffy* reminds the tribunal that I must look at the available evidence to take a view on the likelihood of that conflict of evidence being resolved in the claimant’s favour.

39. The claimant has produced little direct evidence that suggests the required causal link between his protected disclosures and his dismissal.

40. The claimant relies on what he describes as a “pattern of retaliatory conduct” on the part of the respondent. He suggests that detriments were imposed upon him shortly after he made protected disclosures. It is possible that the tribunal at a full hearing will draw an inference from the proximity between the claimant raising health and safety concerns and disciplinary or other action being taken against him. However, it is equally likely that the tribunal will find that the reason for such disciplinary action was the claimant's misconduct.

41. The lack of clarity about the specific protected discloses and the specific alleged retaliation makes it difficult at this stage to draw a clear temporal link between specific disclosures and specific detriments. This weakens the claimant’s case.

42. The main thrust of the claimant’s argument is temporal. He points to the fact that he was subject to disciplinary action including dismissal after making protected disclosures and invites the tribunal to draw an inference that the two are connected. However, the respondent provides an explanation for that temporal coincidence. They say that the claimant’s behaviour (which they say was unrelated to the safety concerns he raised) explains their decision to discipline him and ultimately to dismiss him. They also point to the fact that the final disciplinary procedure was well under way before the claimant made his disclosures in July 2026.

43. In the circumstances, it is unlikely that the claimant’s claim on this essential issue will succeed merely on the timing point alone. Something more is likely to be required (i.e. some further evidence that is indicative of a punitive mindset on the part of the respondent’s managers). The claimant does point to some such evidence. For example, the strongest points in his favour

would appear to be

(a) the claimant refers to a supervisor (Eve Robins) telling him "*we want you gone*" in about December 2025 after criticising the claimant's safety reporting. This is strong evidence as it suggests a direct link between the claimant's complaints and his dismissal. However, it predates the claimant's dismissal by some time.

(b) The claimant also alleges that historic matters were revived during his disciplinary suspension and used to bolster the decision to dismiss him. However, no real detail of this is given by the claimant.

44. Against that is the direct evidence of Mr Hobday as to the reason for dismissal. There is the fact that the respondent appears to have followed an extensive disciplinary procedure including undertaking investigations, disciplinary procedures and giving a series of warnings before resorting to dismissal. The investigation reports appear to support the claimant's misconduct. That conduct is unrelated to the complaints he made. The claimant is said to have admitted the conduct for which he was ultimately dismissed (albeit being unwilling to accept any culpability for it). The lengthy letter of dismissal indicates that the evidence was carefully weighed up by Mr Hobday and that sanction was carefully considered before a decision was reached. There is also the fact that the disciplinary decisions at various stages appear to have been made by different individuals. This will require the claimant to demonstrate that there was some conspiracy on the part of the respondent's management to get him out. On the evidence available to me thus far that appears to be the less plausible explanation for the claimant's dismissal. The respondent also points to the fact that the disciplinary process that ultimately led to dismissal was well under way in June 2026 before the claimant made his alleged disclosures in July 2026.

45. Overall, the weight of evidence in the claimant's favour falls short of the high threshold required for interim relief. I cannot be satisfied on the evidence put before me that the claimant stands a pretty good chance of successfully demonstrating that he was dismissed because of his whistle blowing.

46. For those reasons the application for interim relief is dismissed.

Approved by:

Employment Judge Mr A. Spencer

On 27 September 2026

SENT TO THE PARTIES ON

26 October 2026

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written full 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/