

Claiming for Penalisation/Dismissal

In order to make a claim for penalisation or dismissal arising out of a health and safety complaint, a complaint must be submitted to the Workplace Relations Commission within a period of six months of the date of penalisation/dismissal. A hearing date will be assigned and an Adjudication Officer of the Workplace Relations Commission will hear the complaint. The Adjudication Officer can then carry out one or more of the following options: -

1. Declare the complaint to be well founded or not well founded;
2. Require the employer to take a specific course of action; and
3. Require the employer to pay compensation to the employee.

If the parties are not satisfied with the decision of the Adjudication Officer, the case can be appealed to the Labour Court.

Previous cases for penalisation and dismissal arising from health and safety issues which have been before the Workplace Relations Commission and Labour Court have illustrated that such a claim will only be successful if the employee can prove the following: -

1. That he /she made a complaint to the employer regarding health and safety issues in the workplace. It is extremely helpful if the complaint was made in writing and a copy can be produced.
2. That he/she suffered some sort of detriment as a result of making the complaint regarding health and safety issues in the workplace.
3. That he/she can prove that this detriment would not have been suffered if the complaint was not made.