

## **Constructive Dismissal - Importance of Following Procedures**

The issue of following procedures arose in case ADJ-00026427. The Adjudication Officer in this case helpfully noted the case of EAT case UD142/1987 Beatty -v- Bayside Supermarkets where is stated;

*"The Tribunal considers that it is reasonable to expect that procedures laid down in such agreements be substantially followed in appropriate cases by employers and employees as the case may be, this is the view expressed and followed by the Tribunal in Conway -v- Ulster Bank Limited 474/1981. In this case the Tribunal considers that procedures were not followed by the claimant and that it was unreasonable for him not to do so. Accordingly, we consider that applying the test of reasonableness to the claimant's resignation he was not constructively dismissed".*

In this case the Adjudication Officer found that the employee had failed to utilise and exhaust the grievance procedures as it required. In constructive dismissal cases it is imperative that employees use the internal procedures. Many will say that using them would not have made any difference. That is an opinion. Unless the employee can actually prove this, they have significant difficulties in getting a constructive dismissal case over the line where the grievance procedure has not been used.

**If you require further information please phone us on 01 – 9695781 or e-mail us at [info@grogansolicitors.ie](mailto:info@grogansolicitors.ie). For further information you will find guides on our website [www.grogansolicitors.ie](http://www.grogansolicitors.ie).**

**\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

**\*\*In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**