

Making a Claim Against an Employer*

Workplace accidents are personal injuries which happen in the workplace. They are caused either by the negligence of the employer, a fellow employee or, those providing equipment of services such as a faulty machine. They may also be caused, for example, by a company delivering pallets of goods that have been improperly stacked. A workplace accident claim is one which an injury is caused or where an existing injury or illness is made worse.

A workplace accident may be a physical injury. It may also be a psychological or psychiatric injury.

Do not worry about bringing a claim against an employer

You will not lose your job for taking legal action against your employer. There is job security legislation which protects employees against dismissal or penalisation or victimisation if you bring a claim for a workplace injury. Those protections are in the Safety Health and Welfare at Work Act.

Making a claim after a workplace accident

Workplace accident claims are made by employees who can prove that the accident in question was a result of the negligence of their employer, or other employees or by a third party, for example those providing equipment. A workplace accident is one involving an employee who is required to be on the particular premises on the day the accident happened.

In dealing with a workplace accident a Personal Injuries Solicitor will be able to assist you. Equally in our Firm as we are also Employment Law Solicitors, we have a particular extra expertise in relation to workplace accidents.

The first thing to do of course is to have your injuries checked as to whether they are minor or major by a medical professional. It is important that you get treatment. At the end of the day the most important thing is that you get better. The role of your Solicitor is to get you the compensation for the injury you sustained and suffered. But equally we see our role as helping you get the right treatment to make sure that you get better.

Before bringing a claim, it is important that everything is properly looked at. That means how the accident happened, why it happened, and looking to see who was responsible for the accident happening. It may be something which the employer did. It equally may be something the employer did not do. It may be that you did not get proper training. It may be that there was defective equipment. It may be that there was an unsafe work practice. It may be that the building itself was dangerous or there was a hazard which should have been known. These are all issues which we would discuss with you.

Who will pay?

Most employers already have employer's liability insurance plans in place. This means that the employers' insurance company take over and look after the case. They will do so very early on. This is actually helpful. The employer's insurers will know about these types of accidents. They will have dealt with them. They will know whether this is a case which they will want to settle very early on.

What should you do if you have an accident?

It is important that you tell your employer that the accident has occurred. If there is an accident report book you should tell your manager or the person to whom you should report accidents about the injury you suffered and how you say the accident was caused. It is important that you set these details out fully and carefully.

It is best that you write down clearly in a step-by-step account how the accident happened and what injuries you suffered before you talk to your manager or the person to whom accidents should be reported.

It is helpful to get confirmation that you have reported the accident.

To assist in this, it is useful to send an email to your employer or this can be the manager, setting out what you have told them.

Once you have reported to your employer that you have had an accident your employer must at law report the accident to the Health

and Safety Authority if you have missed three days in a row at work. This three days does not include the day of the accident.

Check your pay rights

It is important to check out does your employer have a sick pay policy. If so, what sick pay are you entitled to. You should look for your contract.

There is no right to sick pay under Irish Employment Law. However, some employer will allow a certain number of paid sick days. Others will have longer rights for you.

You do have some rights though under the Employment Legislation. If you have been injured at work you must get all Public Holidays for the first twelve months of being absent from work under the Organisation of Working Time Act.

If you are out of work because you are sick you continue to accrue your holiday rights for a period of fifteen months. So what does this mean in practice. If you have been injured at work and you are out for three months and you would normally get 20 days holidays you are still entitled to 20 days holidays that year. There is no reduction in those holiday rights because you were out due to a workplace accident.

It is always important also to check out your Social Welfare rights.

What are the duties of your employer?

Every employer has an obligation under the Safety Health and Welfare at Work Act 2005 no matter how small or large that employer is to make sure that they protect your health and safety and the health of all other employee's health and safety at work so to as far as possible avoid accidents and personal injury.

You also have of course a duty to act in a responsible way to avoid putting yourself at risk of an injury.

Why should you contact a Solicitor?

It is important that you get advice from a Firm of Solicitors who are used to dealing with workplace injuries. We have Personal Injury Solicitors who have specific expertise in the area of workplace accidents and are here to assist. We are here to discuss with you

whether or not you have a claim. We are a straight speaking firm. If we believe you have a case we will tell you. If we do not believe that you have a case we will equally tell you. If we tell you that we believe you have a case then anything you need to do to deal with your employer going forward is something we can do for you. Rather than telling your employer that your Solicitor will be in contact with them it is better to leave it to us. It is very important that everything is properly set out and that is something we can do for you.

We recognise that a workplace accident is going to cause stress. It causes worry. People will be concerned about bringing a claim against an employer. These are issues which we regularly deal with. Because employers are insured, normally, this reduces any concern that you should have that your employer will see this as something personal against them. Our job is to work with you to make sure that you get the right treatment so that you can get back to work and be cured fully as soon as possible. Your job is to make sure that you get better. We know that you will want to get back to work. It is our job then to deal with all the legal aspects. They are not things that should worry you. We will of course explain them all to you. At the end every decision is going to be yours but you will get detailed advice from us.

We are here to help

We have over 30 years' experience in Personal Injury and Workplace Accident claims. We are here to ensure that you can focus on your recovery while we go about looking after your claim for you.

For more information on workplace accidents, you can visit our website www.grogansolicitors.ie . You can contact us for a confidential meeting about any claim that you may have. You can contact us by phoning us on 01-9695781. You can email us at info@grogansolicitors.ie or on our website you will find a contact form.

***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 proportion or percentage of any award or settlement.**