

## **10 THINGS TO HELP YOU WIN YOUR UNFAIR DISMISSAL CASE\***

### **1. 80% of Unfair Dismissal cases are won by employees, such as you, because the employer has not followed fair procedures.**

When you read Decisions of the Employment Appeals Tribunal (“EAT”) you find that in many cases the employee receives compensation not because it was unfair that they were dismissed but because the employer did not follow fair procedures. It is a fact that 80% of Unfair Dismissal claims are won not because the employer was wrong to dismiss but because the employer did not follow the procedure to dismiss properly.

Even if you are one the 20% who will win your case because it was unfair, on the facts, that you were dismissed the issue of fair procedures will often decide whether the dismissal was fair or not. The issue as to whether it was reasonable for the employer to dismiss you or not will go to the level of compensation awarded. This is why in this short note you will see that procedures are a strong case you have for winning independent of whether the employer was right or wrong to dismiss you. In addition if you have a good specialist Employment Law Solicitor acting for you they will be able to set out for you, and to a Tribunal/Court, hearing the case how the procedures were at fault. When this is done it often leads to a settlement of your case where the employers solicitor knows that your solicitor can show that fair procedures were not applied.

It is very important that you help your solicitor win your case and hopefully this Guide will help you.

### **2. Write out what happened.**

You need to write out a history of what led up to you being dismissed. Remember the 4 “W” – **WHO, WHAT, WHERE & WHEN.**

Example – John Murphy, my boss (the “WHO”) told me I was fired because I was always late for work (the “WHAT”) when I

was at my desk (the “WHERE”) at 2pm on Friday dd/mm/yy  
(the “WHEN”)

You need to write out a statement this way from the very start of the investigation or disciplinary issues arising.

Such a statement will help your Solicitor prepare the case fully for you. It will also act to remind you, when the case is coming on for hearing as to what the steps were. We find that where people write out the full statement they are less likely to forget important facts.

### **3. Write out What Happened at any Meeting or Discussion**

Again it is the WHO, WHAT, WHERE and WHEN.

Remember, as we set out before, 80% of Unfair Dismissal claims are won by you the employee, because fair procedures were not followed.

Your Solicitor will be very interested to know exactly what happened at any meeting as to who said what to you and when.

If you win on procedures this reduces the time involved for your Solicitor and therefore reduces costs. So even when it was unfair as to why you were dismissed winning on procedures reduces the time involved and therefore the costs.

### **4. Do Not Leave Anything Out**

You may not think something is important. Your Solicitor, where they are like us, specialist Employment Solicitors, maybe very interested in what you think is not relevant.

### **5. Make Sure you Start From the Beginning**

Remember your Solicitor, and the persons hearing your case where not there. They do not know the premises, the business or the individuals.

Referring to somebody as the “boss” or the “foreman” is not as helpful to them as “John Murphy the boss” or “Joseph O Reilly the foreman”

Set matters out using the 4 “Ws” WHO, WHAT, WHERE, WHEN. We cannot stress this enough. By doing this and by setting out any statement date by date or step by step it helps your Solicitor prepare the best possible case for you.

**6. Give Your Solicitor Copies of all Letters, Contracts, Handbooks, Notes of Meetings or Anything you Received During your Employment.**

Especially include anything about any investigation or dismissal however minor you may think it is.

You might not think that these are important but to an experienced Employment Law Solicitor, they are probably some of the most important documents to help win your case.

**7. You must Minimise your Loss**

Unfair Dismissal awards are for “loss of income”. You must try to get a new job. You must be able to show your efforts to get a new job.

Keep copies of all applications. Keep copies of all CVs sent.  
Keep copies of all emails. Keep copies of all replies.  
Note the date you applied for each job.

If you cannot show your efforts to get a new job, and the dates you applied, even if you win your case you may not get any compensation.

Just saying you left CVs to shops, offices or businesses is not enough. You need to be able to say to whom you gave your CVs and when and by this we mean dates.

Having copies of emails and copied of job applications that you have replied to is very important.

If you sign up for a course through the Department of Social Protection keep copies of any documents you receive about it.

If you are sent for any training course or job interviews by the Department of Social Protection keep copies of these.

## **8. It Takes a Long Time for an Unfair Dismissal Case**

A case before a Rights Commissioner will come up in three to six months. Before the EAT it can be up to two years. 98 weeks in some parts of Ireland but usually 78 weeks.

That is why it is important to write everything out. It will act as way of reminding you of important facts.

It is no use in nearly two years time when the case is heard saying to a Court/Tribunal

“It was two years ago I cannot remember”

In Unfair Dismissal cases you will have to give evidence. You will have to set out what you say happened and when and who said it and where. It is therefore important that you have a detailed statement that you can refer to.

## **9. Unfair Dismissal Claims can be Expensive – Keep your costs Down**

Before a Rights Commissioner the case will take approximately 2-3 hours.

Before the EAT it will take anything from two and half hours to seven and a half hours.

In addition your Solicitor has time to spend on your behalf preparing for the case, meeting you, taking instructions, writing to you, preparing the Court forms and dealing with questions that may arise from the other side or from you. Preparation time can be anything from 5 to 10 hours and sometimes longer. You then add travel to and from Court.

By giving your Solicitor a detailed written statement, in the way we have set out, you can reduce the time your Solicitor has to spend with you.

The less time the Solicitor has to spend in preparing your case, because you have set out detailed written statements the lower the fee is going to be. Help your Solicitor to reduce the time spent and thereby reduce the final fee.

The more you help your Solicitor the lower your costs are going to be.

Solicitors cannot charge a percentage fee on cases such as these. The Solicitor will either agree a fixed fee with you or a time based fee. On any fee that you agree with your Solicitor any additional matters or additional time that has to be spent on the case ends up costing you money.

To reduce fees there are some very simple things that you can do,

- a) If you have a question about your case instead of making an appointment to see the solicitor send an email. They may very well be able to answer the email or letter in a matter of minutes rather than having to set aside an appointment for you for half an hour.
- b) If you do need to see the Solicitor let the Solicitor know in advance what you want to discuss with the Solicitor. Again very often this can be dealt with by post or email.
- c) If you are going to see your Solicitor and have questions that you want to ask, have them written out. Let the Solicitor know about them in advance. This helps the Solicitor prepare in advance of a meeting. It reduces the time the Solicitor has to spend on your file. It therefore reduces the costs to you.
- d) If your Solicitor asks you for information or documents have them ready when you go to see the Solicitor. Have them in date order.
- e) If your Solicitor writes to you and asks you for something and you don't understand the reason why, then contact the Solicitor before any meeting to get them to explain exactly what is wanted and why it is wanted.
- f) The fact that you do not see your Solicitor doing a lot of this work does not mean it is not being done in the Solicitors office.

Remember your Solicitor does not just turn up on the day.  
There is a lot of work done in the office which you do not see.

Remember Solicitors, and Especially Experienced Employment Solicitors will have a lot of Cases on. The more you can help them in reducing the time that they have to spend on your file the lower the fee will be to you at the end.

**10. When you are Dismissed go to a Solicitor as Soon as Possible.**

Unfair Dismissal Claims must be lodged within six months of the Dismissal. This can be extended but only in exceptional circumstances.

In practice you need to get the claim in as soon as practicable. Do not delay in going to your Solicitor.

The longer you delay the less chance you have of remembering important facts. You may not have complied with some important matter such as using the company or employer disciplinary procedure so as to lodge an appeal. If you have not complied with the company procedures, to lodge appeals to any dismissal, this can impact in a negative way on any final award that you might receive.

Your Solicitor is there to help you. Your Solicitor is there to represent you. An experienced Employment Law Solicitor will know the law and the rules relating to Unfair Dismissal.

Failing to go to your Solicitor as soon as possible can result in you getting less compensation than you would be otherwise entitled to.

**Conclusion**

The firm of Richard Grogan & Associates is a specialist Employment Law firm. We are here to represent you, to the best of our ability, in accordance with the Law. We can be contacted on (01) 969 5781 or [info@grogansolicitors.ie](mailto:info@grogansolicitors.ie)

You should read our website [www.grogansolicitors.ie](http://www.grogansolicitors.ie) in relation to the issue of fees and costs.

We hope you find this short guide of some help.

**\*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.**