

L.E. LAW INFORMATION SHEET NO. 3

GUIDE TO CLAIMS IN THE EMPLOYMENT TRIBUNAL

What claims can the Employment Tribunal deal with?

Virtually any type of claim arising out of an employer/employee relationship, for example:

- Unfair dismissal
- Redundancy
- Breach of contract
- Deductions from wage
- Sex discrimination
- Race discrimination
- Disability discrimination
- Equal pay

In a few cases you have a choice between the Employment Tribunal or the County Court and we will advise you on the factors to bear in mind. Some cases must go to court, for example if an injunction is required.

Time Limits

It is important to remember that there are relatively short time limits for commencing Employment Tribunal claims. Typically, 3 months from the date of dismissal, or from the date of the act complained of. Usually the employee is bringing the claim and the employer is defending it, but this is not inevitable. Also it is now possible to bring a counterclaim.

Procedure

The person bringing the claim is referred to as the “Applicant” and the person defending the claim is called the “Respondent”.

The procedure is quite simple. The Applicant lodges a claim form setting out the details of the claim. Unlike bringing a claim through the Court there is no fee payable.

The Respondent has 14 days in which to put in a Defence. The Tribunal then gives directions to the parties without any hearing in most cases and sets a date for the final hearing.

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Simple claims can be dealt with from start to finish in less than 6 months, but more complicated claims, for example an equal pay claim, may take more than a year.

Any applications for further directions are usually dealt with without a hearing.

The Tribunal which hears the case consists of 3 tribunal members, one chair (legally qualified) and 2 lay members.

The Applicant and witnesses give evidence first and are then cross-examined. This is followed by the Respondent's witnesses. The chairman usually gives a decision on the day, with written reasons to follow.

Parties do not have to be represented by lawyers, but official statistics show that parties who are represented have a better chance of winning their case than parties who are unrepresented.

Costs

In general, the Employment Tribunal does not award costs against the losing party and therefore parties pay their own costs whether they win or lose. The only exception is if the Tribunal consider that a party behaved unreasonable.

Legal Aid is not available for Employment Tribunal claims but may be available for an appeal to the Employment Appeals Tribunal.

Enforcing Awards

The Tribunal has no power to enforce awards, therefore if the losing party does not pay it is necessary to enforce the award in the County Court as if it was a County Court Judgment.

If an employer becomes insolvent it may be possible for an employee to recover sums (for example, unpaid wages) from the Department of Trade and Industry.

Disclaimer

This information sheet is for guidance only and does not remove the need to take professional legal advice relevant to the specific facts of any individual case. No responsibility will be accepted for any losses occasioned as a result of any action taken in reliance on the contents of this document.