

# EMPLOYMENT TRIBUNALS

## What is unfair dismissal?

Usually, a dismissal occurs when an employer terminates an employee's contract of employment. A dismissal will normally be considered fair if the employer can show that it is related to:

- An employee's misconduct, perhaps a result of theft, poor attendance, lying or violence;
- The employee's lack of capability or qualification;
- A genuine redundancy;
- A statutory requirement such as an employee needs to drive for their work, but has had their licence taken away; or
- Some other substantial reason such as the employee unreasonably refuses to accept changes to their terms of employment.

If the reason for dismissal doesn't fall under one of the above categories, the dismissal could potentially be considered unfair. There are some situations where dismissing an employee is automatically unfair, such as dismissal due to pregnancy or due to being a trade union member. Bringing or defending a claim for Unfair Dismissal is all about following fair and reasonable procedures, but do you know what the latest guidance and law is on what fair and reasonable means?

The Employment Tribunal has very strict time limits for when a claim for Unfair Dismissal can be brought or dealt with, and if you get these wrong you may lose your chance to bring a claim or defend one. Unfair Dismissal is an extremely complex area of law. If you wish to bring a claim or defend one, you need Everyys' expert advice and assistance; failure to follow all the rules could result in the employer being taken to a Employment Tribunal and having to pay substantial compensation, or an employee not receiving the total amount of compensation that they could be due.

## What is wrongful dismissal?

If an employer dismisses an employee without notice or with less than the minimum notice period, either by statute or what was stated in their contract, there may be a claim for wrongful dismissal. Advance notice of termination is required and normally this is specified in the contract of employment, but it cannot be less than one week for each year of service, with a minimum of one week and a maximum of 12 weeks. This is known as the statutory minimum notice period.

The Employment Tribunal has very strict time limits for when a claim for Wrongful Dismissal can be brought or dealt with, and if you get these wrong you may lose your chance to bring a claim or defend one.

## How much will it cost me to bring and defend claims for unfair or wrongful dismissal?

	Minimum Costs	Maximum Costs
<b>Simple complexity case</b>	£15,000 (£18,000 incl. VAT)	£19,999 (£23,998.80 incl. VAT)
<b>Medium complexity case</b>	£20,000 (£24,000 incl. VAT)	£29,999 (£35,998.80 incl. VAT)
<b>High complexity case</b>	£30,000 + (£36,000 + incl. VAT)	
<i>These costs exclude disbursements</i>		

These are **estimated** costs; we reserve the right to charge more or less as appropriate depending on the complexity of the case.

It is difficult to provide an exact cost as there are many factors that can make a matter more complicated:

- If it is necessary to make or defend applications to amend claims;
- If we need to provide further information about an existing claim;
- Defending claims that are brought by litigants in person;
- Making or defending a costs application;
- Complex preliminary issues such as whether the claimant is disabled (if this is not agreed by the parties);
- An additional claim to unfair dismissal or wrongful dismissal, such as discrimination;
- The number of witnesses and documents;
- If it is an automatic unfair dismissal claim e.g. if you are dismissed after blowing the whistle on your employer; or
- Allegations of discrimination which are linked to the dismissal.

Disbursements are costs related to your matter that are payable to third parties, such as court fees, counsel's fees or fees to obtain your medical records from your GP (or other medical practitioner). *These are not included in our pricing above.* We handle the payment of the disbursements on your behalf to ensure a smoother process,

In addition to the above, if you would like us to attend a Tribunal hearing, there is a charge of £1,200 excl. VAT (£1,440 incl. VAT) per day.

Generally, we would allow one to seven days for the hearing depending on the complexity of the case.

## **What are the key stages of these types of claim?**

The fees set out above cover all of the work in relation to the following key stages of a claim:

- Taking your initial instructions, reviewing the papers and advising you on your chances of succeeding and likely compensation (this may be revisited throughout the matter and subject to change);
- Entering into pre-claim conciliation, where this is mandatory, to explore whether a settlement can be reached to save you going to a hearing;
- Preparing the claim or response;

- Reviewing and advising on the claim or response from another party;
- Exploring settlement and negotiating settlement throughout the process;
- Preparing and considering a schedule of loss;
- Preparing for (and attending) a Preliminary Hearing (which is a hearing before the main hearing);
- Exchanging documents with the other party and agreeing a bundle of documents;
- Taking witness statements, drafting sentences and agreeing their content with witnesses;
- Preparing bundle of documents;
- Reviewing and advising on the other party's witness statements.
- Agreeing a list of issues, a chronology and/or cast list; and
- Preparation for the Final Hearing, including instruction to Counsel.

The stages set out above are an indication and if some are not required, the fee will be reduced. You may wish to handle the claim yourself and only have our advice in relation to some of the stages. This can also be arranged on your individual needs - we are very happy to prepare documentation and letters on a set fee basis so that you know what you are spending and when.

## **How long will my matter take?\***

The time it takes from taking your initial instructions to the final resolution of your matter depends largely on the stage at which your case is resolved. If a settlement is reached during pre-claim conciliation, your case is likely to take 4 - 16 weeks. If your claim proceeds to a Final Hearing, your case is likely to take 16 - 52 weeks.

This is just an estimate and we will, of course, be able to give you a more accurate timescale once we have more information and as the matter progresses. We are very happy to talk with you about any of the above before you incur any fees.

\*Please note that these timelines are based on pre-Covid-19 conditions, so your claim may take longer. Your solicitor will be able to advise on the likely timescale.