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Employment Law Advice ^[1]

Employee Advice

1. I have been with my employer for six months and he has told me that he does not need me anymore and just dismissed me with a month's notice. Can I bring a claim for unfair dismissal ^[2]?

Probably not. In most cases it is a requirement that an employee has at least 52 weeks continuous service before a claim can be brought for unfair dismissal. Please note that for all new employment starting on or after 6th April 2012 this requirement has increased to 104 weeks service. There are a number of limited circumstances where this is not necessary and it is wise to obtain immediate specialist advice.

2. My employer has dismissed me on the basis that my role is redundant ^[3]. I do not accept this, however, as my work has simply been shared around my colleagues.

This is a common scenario in redundancy cases. By definition, a redundancy is where there is a reduced requirement by the business for the number of people to carry out the role. Very often it will be the case that your work will still need doing, but by using a new system or structure whereby your work can be done by less people. However, if the employer recruited someone else around the time of your dismissal then it may be the case that there was no redundancy situation and the dismissal would then be unfair.

3. I have been dismissed for gross misconduct but I did not do what I was accused of ^[4]. I would like to take them to Tribunal to clear my record. Can I do this?

Not necessarily. Many people think that an Employment Tribunal will focus on whether you did or did not do what you were accused of in this type of claim. However the Employment Tribunal does not consider whether you can be proved guilty of the allegations. Their role is to decide whether, based on the evidence before your employer at the time it made the decision to dismiss you, it was reasonable of the employer to conclude that it was more likely than not that you did what you were accused of, which should be the result of a reasonable investigation.

4. Is there a deadline for filing a complaint at an Employment Tribunal?

Yes, the general rule is three months minus one day from the date of the event complained of. There are exceptions to this and it is wise to obtain specialist advice due to the fact that the deadlines are very strictly observed by the Tribunal service and delay by you could defeat any potential claim.

5. Is it correct that I need to write to my employer setting out my complaint before I make a claim to the Tribunal?

No, prior to April 2009 it WAS necessary to lodge a grievance before submitting certain claims, however the law has changed and it is no longer a requirement. It may however be a useful exercise to complete in case your situation can be resolved internally. Normally you should exhaust any internal grievance procedures which may be in place but keep checking on the strict time limits for Tribunal claims mentioned above. Please note that an internal appeal does NOT stop the time running for lodging a formal claim to the Tribunal.

6. My employer has offered me a Settlement Agreement ^[5] in order to end my employment because of some problems we have been having. What is a Settlement Agreement?

A Settlement Agreement (previously known as a Compromise Agreement) is a contract that you and your employer sign to end your employment and prevents you from bringing any claims against it after you have left. For the agreement to be legally binding you must have received advice from a Solicitor as to its contents and terms.

Settlement Agreements normally benefit the employer therefore the employer will usually indemnify your legal costs in obtaining advice up to a certain amount, normally £250 plus VAT. Once the agreement is entered you are precluded from bringing any action against the employer at any time unless you have been misled into signing the Agreement.

For further information on this and any other employment issue

please use our [enquiry form](#) ^[6]

Links

[1] <https://www.sydney Mitchell.co.uk/services-individuals/employment-law/employment-law-advice>

[2] <https://www.sydney Mitchell.co.uk/services-individuals/employment-law/dismissal/unfair-dismissal>

[3] <https://www.sydney Mitchell.co.uk/services-individuals/employment-law/dismissal/redundancy-law>

[4] <https://www.sydney Mitchell.co.uk/services-individuals/employment-law/dismissal/breach-contract>

[5] <https://www.sydney Mitchell.co.uk/services-individuals/employment-law/dismissal/settlement-agreement>

[6] <https://www.sydney Mitchell.co.uk/contact>