

# **Statutory Dispute Resolution Procedures**

# **The Gibbons Report**

Likely that the Dispute Resolution  
Regulations will be repealed, however,  
unlikely to occur before 2009 at the earliest!

## **Dick Lovett Ltd (t/a Porsche Swindon Centre) (2007) EAT**

Absence report stating “following on from meeting, went home very upset. Didn’t sleep and suffered numerous nose bleeds”. Held on appeal that this did not constitute a grievance.

# **Camden and Islington MHSCT -v- Atkinson (2007) EAT**

Claimant suspended in breach of contract as she was not offered trade union representation at a suspension meeting. EAT held that the suspension and the refusal to lift it at an investigatory meeting destroyed the relationship of trust and confidence. Finding of constructive unfair dismissal upheld.

# **Dismissal claimed to be an act of unlawful discrimination**

- Lawrence –v- HM Prison Service [2007] IRLR 468 – do not need a separate grievance
- Department of Constitutional Affairs –v- Jones - EAT
- Otaiku –v- Rotherham PCT - EAT
- The Dismissal and Disciplinary Procedure not the Grievance Procedure apply to such claims.

# **Brock –v- Minerva Dental Ltd EAT**

## **South Kent College -v- Hall EAT**

- Brock - Constructive Dismissal when the employee leaves because he/she realises they are about to be pushed – the Grievance Procedures do not apply.
- Contrasts with South Kent - initiating a capability procedure was not contemplating dismissal. (See also Pinkus -v- Crime Reduction Initiative.)

# **Alexander –v- Bridgen Enterprises Ltd (2006) IRLR 422**

## **Redundancy case -**

### **Step 1 Letter**

Merely need to be told you are at risk of dismissal and why

### **Step 2**

Requires the basis for the ground to be conveyed to the employee but this does not need to be done in writing.

# **Home Serve Emergency Services Ltd -v- Dixon (2007) EAT**

**Step 1** - Letter did not state that the employer was contemplating dismissal. It referred to “formal disciplinary meeting” for “breach of contractual obligations” EAT held that this was sufficient.

# **YMCA Training –v- Stewart (2007) IRLR 185**

Conduct case - The tribunal must look at all the steps taken by the employer to determine whether the information required to be given as part of Step 2 has been given. It may have been given in the course of the investigation before the Step 1 letter is sent calling the employee to the Step 2 meeting - that is sufficient. General approach is only the minimum information necessary it required to be given.

## **Premier Foods Ltd –v- Garner EAT**

Disciplinary Process started on one ground but further issues are brought in the course of the process. EAT holds that in such a case the Statutory Procedure must be restarted! It is suggested that this must be subject to some de-minimis threshold.

# **Sovereign Business Integration –v- Trybus EAT**

Case which considered the requirement that the Step 2 meeting must be held at a reasonable time and place – Employee ill during proposed dates.

# **Statutory Grievance Procedures – application to individual Respondents who are not the Employer**

Differing decisions of the EAT. Position is probably that the Grievance Procedures do not apply, therefore issues for time limits when lodging against employer and the individual employee.

# Contents of a Grievance

Thorpe -v- Poat EAT – employee need not follow the employer's Grievance Procedure or use official form e.g. comply with time limits.

# Grievance which covers events subsequent to the submission of the Grievance

Common issue in relation to constructive dismissal – employee grieves, then resigns because he/she considers the employer failed to properly address grievance, conflicting decisions – Mudchute Association -v- Petherbridge EAT held should be a second grievance. The decision considered to be unreal by EAT in Galaxy Showers Ltd -v- Wilson.