

## **EMPLOYMENT LAW ISSUES**

Over the past few decades employment law has evolved to the point where it would be barely recognisable to an employer of say, fifty years ago. In those days the employers set their own rules for the employees usually with scant regard to fairness although the unions which existed did their best to gain reasonable conditions for their members.

It is mandatory for every employee to have a written employment contract which should set out in detail all of the terms of employment in the workplace. Very often the employment contract comes into focus when disciplinary or termination issues arise. An employee must be dealt with fairly even if he/she has been extremely provocative and uncooperative in the workplace. In many instances employers must bend over backwards to ensure that the minimum requirements of dismissal, or discipline short of dismissal, have been followed.

The Employment Relations Authority is quite strict in applying the principle of fairness to an employee when requisite procedures have not been followed and it will award compensation to an employee who has successfully proved that his/her employer has acted unfairly in either disciplinary or dismissal procedures.

When an employer decides to take action against an employee it is essential that any procedures set out in the employment agreement are followed. The employment agreement sets the rules of engagement between the parties.

Written warnings setting out the employer's concerns must be given to give the employee exact notice of the employer's dissatisfaction with his/her performance. The notice should also advise the employee that her/she is entitled to have a support person or employment representative in attendance at any meetings to be held to discuss the matters raised. Notice should also be given to the employee of any disciplinary proposals so the employee is aware of the possible outcome of the process, and how seriously the employer sees it.

There is a lot of skill required to provide a notice to an employee, written in a manner which does not expose the employer to an accusation that the employer had already predetermined the outcome of the matters in issue.

The days where an employer could dismiss a recalcitrant employee at will are long since gone. If an employer dismisses or disciplines an employee unfairly the outcome can be very costly for the employer.

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