

Redundancy Dismissals

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"Redundancy can be a fair reason for dismissal... but may be considered to be unfair on general principles"

Introduction

Rahman Lowe Solicitors regularly advise businesses and senior executives on all stages of the redundancy dismissals, including any settlement terms, associated grievances and employment tribunal litigation. In addition, if you are an employee or senior executive and you have been asked to sign a settlement agreement, we can advise you on the terms and effect of the settlement agreement and also help negotiate favourable settlement terms and an increase in any redundancy dismissal payment.

What is redundancy?

Redundancy is a potentially fair reason for dismissal under the Employment Rights Act 1996. A genuine redundancy exists only if the employer is closing down its business altogether ("the business disappears"), or it is closing its business in the place where the employee is employed ("the workplace disappears"), or else it finds that the business no longer needs the employee's skills ("the job disappears").

It is normally sufficient for an employer to adduce evidence that the reorganisation was genuine and that it resulted in the need for less staff. The only exceptions to this are where it can be shown that the redundancy situation was a sham to get rid of an employee for some other reason and/or where there has been no reduction in the number of staff carrying out work of a particular kind.

Unfair redundancy dismissal

A dismissal for redundancy may be considered to be unfair on general principles for several reasons, namely that; there was no genuine redundancy situation, the employer failed to consult, the employee was unfairly selected, or the employer failed to offer alternative employment.

Redundancy & discrimination

A redundancy dismissal due to pregnancy or maternity is automatically unfair and an employee can make a claim for automatic unfair dismissal and/or maternity and pregnancy discrimination regardless of whether she has two years' service.

If an employee is selected for redundancy because of pregnancy or maternity, then this could potentially constitute direct sex discrimination. Similarly if an employee is selected for redundancy because of their race or religion, then this too could amount to race or religious discrimination, contrary to the Equality Act 2010.

It is also important to note that even if there was a genuine situation for redundancy, an employee may still have been unfairly dismissed. It is vital to seek expert employment law advice as soon as possible if an employee wishes to claim discrimination or dismissal, as there are strict time limits to adhere to.

Statutory redundancy payments

Providing certain eligibility requirements are met (e.g., two years' continuous service), an employee who has been made redundant is entitled to statutory redundancy pay. If an employer fails to make a redundancy payment, then a claim will need to be lodged within six months, less one day of the date of termination of employment.

There are various ways in which an employee could lose this pay, most notably if the employee refuses an offer of alternative employment in an unreasonable manner. There also may be a stipulation in an employee's contract which does not permit them to claim payments as they can be temporarily laid off without any pay.

In the event of redundancy, an employee is entitled to be paid half a week's pay for each full year of service under the age of 22; one week's pay for each full year between the age of 22 but under 41 and one and a half week's pay for each full year of service above the age of 41.

What are employers' responsibilities?

If an employer is considering making redundancies within a company, they must ensure that they first select a "pool" of employees, and adapt an objective selection criteria.

At the very least, they must also look for alternative employment for those employees facing redundancy, and offer any available vacancies. However, an employer need not create a new job to avoid a redundancy situation.

Furthermore, an employer should allow reasonable time off for an employee to seek future employment, as this is their right within the notice period.

Within our niche employment law firm, we regularly advise businesses on this process and the steps to take to avoid any potential discrimination or unfair dismissal claims. It is important to seek expert employment law advice at the outset of any complaint/grievance relating to a redundancy dismissal.

Legal advice and fees

Our Canary Wharf based employment solicitors are regularly instructed to advise on complex redundancy matters. It is important to obtain legal advice from an expert employment lawyer as each redundancy offered will be different and will be tailored to the individual employee. You will therefore need to be advised on what is being offered to you in the event of a redundancy dismissal. You also need to fully understand the terms of the redundancy dismissal and the different time limits that apply to the various claims that can apply in a redundancy matter as it can mean you cannot pursue a claim against your employer in the Employment Tribunal or Civil Courts.

If you have any questions or would like to talk to one of our expert employment lawyers based in Canary Wharf, London about a redundancy or additional information, please call us today on **020 7956 8699** or email info@rllaw.co.uk.

"We are regularly instructed to advise on complex redundancy matters"



Our expert redundancy lawyers regularly deal with every step of the redundancy process with efficiency

About us

We are a niche firm of employment and discrimination lawyers based in Canary Wharf, London. We have practised successfully in the City and at some of the UK's largest employment law firms. We also have expertise of working in-house.

Rahman Lowe offers the same quality service and advice as large City law firms but unlike most of our peers in the City, we act for both companies and senior executives. This enables us to anticipate problems before they arise and to advise on tactics.

We work in partnership with our clients and our priority is to build long term trusted relationships. Our partner led teams are committed to ensuring that our legal advice consistently exceeds our clients' expectations.

Our employment lawyers are experts and they regularly conduct seminars and training on developments in Employment and Discrimination Law for our clients. We also conduct training for LexisNexis, a leading global professional information provider and the Chartered Institute of Personnel and Development (CIPD), Europe's largest network of HR professionals.



"We add value by maximizing our clients' entitlements"

Bespoke employment law advice

Our specialist employment lawyers provide bespoke employment law advice, which is tailor-made to meet your specific requirements. We use our legal knowledge to provide creative solutions and our emphasis is on service and results. We have significant experience of the following:

- Settlement agreement advice
- Discrimination law (all types)
- Whistleblowing
- Unfair dismissal
- Redundancy
- Drafting and negotiating terms and conditions
- Equal pay
- Disciplinary and grievance
- Bonus disputes
- Breach of contract and wrongful dismissal claims
- FSA regulatory matters.



Contact us

Please feel free to telephone us to discuss your own position and concerns.

Our employment law solicitors, based in Canary Wharf, London provide pragmatic advice on all aspects of employment law.

"Jahad provides us with pragmatic employment law advice. He is strategic, commercial and very client friendly. I would have no hesitation recommending him".

Marta Grande
Head of HR, Vivienne Westwood Ltd

"Jahad is an extremely knowledgeable employment lawyer. He exhibits a real can-do attitude. The team at Rahman Lowe provides an excellent service".

Peter To, Director
City Quays Ltd

"Jahad is commercially aware and he always gives excellent advice. He regularly speaks at seminars organised by the CIPD".

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