

## **EMPLOYMENT APPEALS TRIBUNAL**

### **Guidelines for persons representing parties before the Tribunal**

These guidelines have been prepared for the assistance of those who appear on behalf of clients before the Tribunal.

The Tribunal was established to provide a speedy, inexpensive and relatively informal means for resolution of disputes under the various legislation that comes within the Tribunal's scope. All practitioners should bear this principle in mind when preparing and presenting cases and should avoid "legalisms".

- Practitioners trained in the adversarial method should remember that the Tribunal often uses the inquisitorial method and may raise matters that have not been raised by either of the parties.
- While the Tribunal is empowered to take evidence on oath, it is not essential to take sworn evidence, and evidence may be presented in a less formal manner. By and large, the Tribunal endeavours to limit the application of the oath to cases where it is necessary.
- Where cross-examination is considered necessary, practitioners are reminded that such cross-examination should be brief and to the point and they should also bear in mind that, at the end of the cross-examination, there may be further questions from Tribunal members. Re-examination, if required, may follow the members' questions.
- The Tribunal does not necessarily enforce the strict rules of evidence. The "best evidence" rule does not always apply, and hearsay evidence may be admitted by the Tribunal, subject to the rules of fair procedure.

Parties should endeavour to reach agreement on uncontroversial issues of fact (wages, length of service etc.). If possible, parties should try to reach a wider agreement so as to net down the issues to be decided by the Tribunal.

- There are no paper pleadings lodged in the Tribunal. However, the parties are expected to set out their respective cases in writing on the forms completed by the parties prior to hearing. A flexible approach, however, is taken to these papers, and parties will not necessarily be confined to what is contained in them. This approach by the Tribunal is, however, governed by the rules of fair procedure.

- Documents to be used by the parties should be prepared in a booklet or booklets, and sufficient copies should be made for the Tribunal and the other party.
- Both parties are entitled to make opening statements. Apart from outlining a party's case, these statements will help to eliminate areas of disagreement and bring the focus of the Tribunal onto the net issues involved.
- Witness summonses may be obtained on application to a sitting division of the Tribunal. Parties should bear in mind that it is the Tribunal, which requires the attendance of a witness, and the issue of a summons is a matter within the Tribunal's discretion. Applications should be made in good time so as to allow the witness reasonable opportunity to make arrangements to attend. If the venue of the hearing requires a witness to travel some distance, this is a matter to which the Tribunal shall have regard in deciding whether to issue a summons. Professional witnesses and witnesses who are not closely involved with either party should not be unnecessarily detained. Any costs or expenses incurred by a witness will be the responsibility of the party seeking the summons.
- The Tribunal does not have power to order discovery of documents. It is, however, empowered to order a person to attend at a time and place and to bring such documents as are specified. An application for such a summons should state the nature of the documents involved with some particularity.
- By their very nature, adjournments cause delays to the Tribunal schedule of hearings. While consideration will be given to all applications, the following conditions at least should be met when applying for an adjournment:
  - Good cause should be shown as adjournments are only granted for very grave reasons,

- The application should be at the earliest opportunity after receipt of the notice of hearing, save where the Tribunal for just cause dispenses with this requirement,
- The written consent of the other party must be obtained. Where same is not forthcoming or cannot be procured easily, the Tribunal nevertheless requires the application to be made at the earliest possible date.
- The Tribunal may not award costs against any party unless, in its opinion, a party has acted frivolously or vexatiously. Such costs are confined to a specified amount in respect of travelling expenses and any other costs or expenses reasonably incurred by that other party in connection with the hearing, but shall not include any amount for the attendance of counsel or solicitors, officials of a trade union, or of an employers' association.

## **Statutory Forms to be used in an application to the Tribunal**

**T1-A: This form is to be used for direct claims to the Tribunal under the following Acts:**

- Redundancy Payments Acts, 1967 to 2001
- Minimum Notice and Terms of Employment Acts, 1973 to 2001
- Unfair Dismissals Acts, 1977 to 2001
- Organisation of Working Time Act, 1997

**T1-B: This form is to be used for appeals of the Rights Commissioner's Recommendation to the Tribunal under the following legislation:**

- Unfair Dismissals Acts, 1977 to 2001
- Payment of Wages Act, 1991
- Terms of Employment (Information) Act, 1994 and 2001
- Maternity Protection Act, 1994
- Adoptive Leave Act, 1995
- Protection of Young Persons (Employment) Act, 1996
- Parental Leave Act, 1998

- Protection of Persons reporting Child Abuse Act, 1998
- European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations, 2000
- European Communities (Protection of Employment) Regulations, 2000
- Carer's Leave Act, 2001

**T1-C:** This form is to be used for appeals to the Tribunal under the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2001.

**T1-D:** This form is to be used by persons who wish to bring before the Tribunal a Recommendation / Decision of a Rights Commissioner, which has not been carried out under the following legislation.

- Unfair Dismissals Acts, 1977 to 2001
- Terms of Employment (Information) Act, 1994 and 2001
- Protection of Young Persons (Employment) Act, 1996
- Protection of Persons reporting Child Abuse Act, 1998
- European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) (Amendment) Regulations, 2000
- European Communities (Protection of Employment) Regulations, 2000

- Carer's Leave Act, 2001

**RP51B:** This form is to be used for appeals against a decision of the Minister for Enterprise, Trade and Employment or a Deciding Office in a matter of redundancy under the Redundancy Payment Acts, 1967 to 2001

**T2: T2B: and T2D:** These forms are to be used by a respondent against whom a claim has been lodged to enter a notice of appearance before the Tribunal.

All enquiries and forms to:

**Employment Appeals Tribunal  
Davitt House  
65A Adelaide Road  
Dublin 2**

**Telephone: (01) 631 2121 or  
1890 220222 Lo Call  
from outside (01) area**

**Fax: (01) 631 3266**

