



## Employment alert

### "Grievance" can be "appeal"

A Court of Appeal case this week has held that an employee who complained about the way her redundancy dismissal was handled (a letter that she referred to as a "grievance" about being "stitched up") had actually raised an appeal. This was despite the fact that the dismissal letter told her she had 7 days to appeal against the decision, which she failed to do.

The distinction mattered because she brought her claim for unfair dismissal outside the 3 month time limit for bringing a Tribunal claim. She was badly-advised by her union representative who seems to have thought that raising a grievance extends the time limit to 6 months in an ordinary unfair dismissal case (as it does in a constructive unfair dismissal case). However, this limit can be extended by an Employment Tribunal if the employee reasonably believes that a dismissal procedure is ongoing (for example an appeal has been requested but no outcome reached).

In an employee-friendly decision the Court said that the label the employee attached to her complaint was neither here nor there. Whatever it was called, it counted as following a "dismissal procedure", just as if it had been called an appeal.

#### Conclusion

These exact facts are unlikely to be repeated. But the case is relevant to us because it reminds us not to be too attached to the idea that a piece of paper is what it says it is. Any gripe in writing might be a grievance or an appeal even though it doesn't ask for any outcome in particular. When this gripe comes to you or to a manager in a quick e-mail or on the back of some scrap paper you can easily overlook that it might have legal consequences.

A handwritten signature in black ink, appearing to read "Stephen Conlan".

Stephen Conlan  
Partner



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