

Redundancy continued from page 3.

Your employer is also required to have a genuine need for the redundancy. They cannot simply use redundancy as an excuse to get rid of an employee that they no longer want working for them. Should an employer fail on either of these two points then you will most likely have a genuine cause to raise a personal grievance.

### 90 Day Trial Periods

Many Employers are firing Employees under what they consider is a 90 day trial period. However, for this to be legal the Employer has to follow a very specific process when first employing you. Most 90 Day Trial Period terminations we look at are not legal and the employee has then had the right to take a personal grievance against their employer. If you have been terminated under a 90 Day Trial Period, call us for advice if your termination is legal or not.

### Constructive dismissal

There is an urban myth floating around many work places that if an employee does not like their job or their working conditions they can simply resign and claim a constructive dismissal personal grievance against their employer. This is simply not true. If you feel pressured to resign call us for free advice first.



### Help! What can I do right now?

If you fear for your personal safety or wellbeing at work then get yourself out of there straight away. Once you are in a safe place then call for help.



Never resign in the heat of the moment. Should you resign you lose most of your compensation rights as an employee and you make it much harder for your advocate to help you. If the situation is really stressing you then it is best to go home sick after telling your manager that's what you are doing. Go and see your doctor for a medical certificate and phone someone who can help you with your employment situation.

Keep an accurate diary of all the events that have happened. Start a file and write down the time, day & date, where you were, who you were with and who said or did what to whom. If at all possible take home printouts of all communications regarding your issue.

Contact our employment advocate on **0800 HELP ME** (0800 435 763) who will talk to you **free of charge** to get specific advice on how to best handle your particular set of circumstances. Check with them at the beginning of the call that you will not be charged anything for that call. They should be able to give you sound advice over the phone and they may possibly send you an action plan by email.

Please don't hesitate to call us if you require other employment law advice that is not covered here.

**Disclaimer:** All information in this brochure is to the best of the authors' knowledge true and accurate. No liability is assumed by the authors, or publishers for any losses suffered by any person relying directly or indirectly upon this information. It is recommended that you should consult your employment representative before acting upon any of this information.

# FREE EMPLOYMENT LAW ADVICE

Information for Employees  
& workers who have  
problems at work

<u>Contents</u>	<u>Page</u>
What are my employment rights?	1
Personal grievances	2
Disciplinary meetings	2
Unjustified termination	3
Redundancy	3
90 day trial periods	4
Constructive dismissal	4
Help! What can I do right now?	5

For a **free** consultation phone

Danny Gelb FAMINZ LEADR

call free **0800 HELP ME**  
(0800 435 763)

[danny.gelb@employmentlaw.net.nz](mailto:danny.gelb@employmentlaw.net.nz)

Danny Gelb Employment Law Advocacy



# Employment Dispute?



## What are my Employment Rights?

New Zealand employment rights and obligations are primarily controlled by the Employment Relations Act 2000. This act of parliament states what your rights are as an employee. The essence of this law is that your employer must treat you in a fair and just way in handling all aspects of your employment and that they must act in good faith at all times. Should they not treat you in a fair or just manner that either disadvantages you or leads to your employment termination then you may be justified in raising a personal grievance against your employer in order for you to attempt to correct any wrongdoing and to pay you compensation for what you think they may have done that was unfair, unjust or wrong.

As an employee you must also act in good faith in handling all matters of employment with your employer. Should an employer be able to establish that you have not acted in good faith and that you have contributed to the situation then any money the Employment Relations Authority may award you in compensation for your personal grievance may be reduced as you may have contributed to the situation.



## Personal Grievances

An employee may raise a personal grievance against their employer at anytime within 90 days from the date of the incident that caused the employee to feel personally aggrieved. A grievance is raised by a letter being sent to your employer stating that you have a personal grievance, what has happened to cause you this personal grievance and what you want the employer to do to make this matter right. It is important that this letter be written correctly otherwise it may not be considered a valid personal grievance claim and by the time you realise this the 90 days have passed and it is too late to proceed with your claim. If you are unsure then you can contact us for **free advice** or we can help write this letter for you.



**Free Advice 0800 HELP ME**

## Disciplinary meetings

Disciplinary meetings are called by employers if they have an alleged item of misconduct or a performance issue with you that they want to investigate or discuss. For this meeting to be fair on you, your employer must give you written notice of the meeting stating at a minimum: -

1. This is a disciplinary meeting.
2. The time and date of the meeting.
3. The allegations they are accusing you of.
4. The possible outcomes of the meeting.
5. Advising you that you are entitled to bring a support person with you to the meeting.

You have the right to reschedule the meeting if your support person cannot make the time that your employer proposes. If your employer fails to include all of the above in the notice then the meeting may be unfair and unjust on you and you may have grounds for a personal grievance.

The best type of support person to take to these meetings is someone who has knowledge of employment law. A friend or work colleague may give you comfort at these meetings. However, if they don't know employment law, they may not be able to advise you of your rights. Sometimes **we can attend these meetings as your support person free of charge** to you, subject to our availability. The typical outcomes of a disciplinary meeting include:-

1. No further action required.
2. A verbal warning.
3. A written warning.
4. Termination of your employment.

## Unjustified termination or warnings

Should you believe that the outcome of your disciplinary meeting is not justified and your employer is wrong in their decision then you can challenge it by raising a personal grievance. Thought should be given before you raise a personal grievance because it may effect your long term employment relationship with your employer. We can talk you through the positives and negatives of raising a personal grievance.

## Redundancy

Redundancy is an unfortunate risk of employment that can not be avoided. In reality you have very little control over your company's situation and the need or not for redundancies. There is no legal requirement for an employer to pay you anything extra for a redundancy. However, employers are required by law to go through a consulting process with you. This includes talking with you about the possibilities of redundancy and seeking your feedback before they make their final decision. Similar to the disciplinary meetings they must give you written notice of the meeting incorporating most of the same information as a notice for a disciplinary meeting.

