

A TRIBUNAL TALE

David von Hagen, employment partner at legal firm Taylor Walton, continues his tale of Surfwork Limited, a fictitious company which has not followed correct disciplinary procedure and as a result is struggling through a tough Tribunal hearing.

Jack Sack has started Employment Tribunal proceedings in respect of his dismissal against Surfwork. The Hearing begins today.

Surfwork's lawyers and witnesses gather in the Respondent's waiting room. Surfwork's lawyer, Larry von Largelager, paces up and down. "We're on first", moans Larry. "Cindy (Jack's lawyer) is going to rip us to shreds on procedure".

In the Claimants' waiting room, Jack sits with Cindy, terrified at the prospect of giving evidence.

The Tribunal clerk calls the parties into the hearing. The Chairman, Charlie Chewpy, says he has no time for preliminaries. "I will allow two and half minutes for lawyers' submissions", he barks. Cindy states that the dismissal was both substantively unfair in that there was no reason for the dismissal and procedurally unfair in that no proper procedure was followed. The dismissal was therefore automatically unfair. Larry runs the defence that Jack's actions were so heinous, that normal procedures could not be applied and the end result would have been the same whether procedure had been followed or not.

Charlie Chewpy agrees to hear all the evidence. Larry calls Surfwork's first witness, Les Killum, Jack's bad tempered line manager. Les reads from his witness statement and is then cross-examined by Cindy. Les is not good – he gives conflicting accounts of Jack's drinking and, even worse, comes completely clean about the complete lack of procedure on Jack's dismissal. Les then loses his temper and fumes: "Jack was rubbish! I needed to get rid of him there and then!" Larry puts his head in his hands.

The next witness is Phil McPocketts. Phil is even worse. He reads from his witness statement but nods off a couple of times. When cross-examined, Phil says he cannot really remember the dismissal meeting and says he didn't really know Jack. He got all his information from Les who told Phil before the meeting that "Jack had to go".

The next witness is the worst of all. Heidi Evidens is meant to confirm Jack's acts of sexual harassment. Instead, she admits that she felt sorry for Jack, quite liked him and never felt threatened or intimidated by him.

At the end of the hearing, Surfwork meet in the Respondent's waiting room. Larry is not happy. "This case must settle," he says. Les is completely against settling but Phil and Jemima Friendly, Surfwork's HR Director, are more commercially - minded. It is agreed that Surfwork will consider a settlement overnight.

Next issue: Will they or won't they settle? Can you bear the suspense? The final episode of the Tribunal Clinic fast approaches with the most thrilling episode ever!

For advice on tackling employment tribunals, call Heather Cowley on 01582 731161 or email heather.cowley@taylorwalton.co.uk