



NJC DISMISSAL ARBITRATION PANELS BEST PRACTICE

Introduction

The NAECI Procedures for appeals against dismissal / redundancy dismissal is a fundamental part of the National Agreement. It requires swift action by the local parties at each Procedural Stage to ensure that it remains a credible process for all NAECI stakeholders.

In order to ensure that there is no delay in the process, the NAECI stipulates set timescales for each Procedural Stage. These are critical to appeals against dismissal and redundancy where the employment status of an individual is expected to be decided upon as quickly as possible for the benefit of both employer and employee.

To ensure this, the NJC Office ensures that a Panel is available to hear Stage 4 cases at least once a month.

Guidance to Stage 4

At the outset of the Procedural process the parties should make themselves familiar with the requirements of the appropriate NAECI Procedural track: NAECI 14 and Appendix E for Raising a Grievance / Dispute Adjudication and NAECI 15.8 and Appendix F for Appeals against Dismissal.

To ensure adherence to the NAECI Procedural timescales the parties should notify the NJC Regional Operations Manager (ROM) of intended Stage 2 hearings. This enables the ROM to log the Procedural issue and assist the parties to meet the required NAECI timescales from one Stage to the next. This will also allow Facilitation to be offered in accordance with NAECI Appendix F.4.

Guidance for Stage 4: Dismissal Arbitration Panels

To maximise the efficiency of the process, the following should be applied:

1. Where an individual is also eligible to submit an employment tribunal application in relation to the same matter, they can opt to apply either to the tribunal or to an NJC Dismissal Arbitration Panel, but not both. Where it is indicated or the employer has reason to believe that an application has been or is being made to an ET, then it is the responsibility of the NJC staff to investigate and establish the facts. Wherever possible, Stage 4 timescales will be maintained by both parties whilst the facts are being established. However, where further time is required to establish the facts and when mutually agreed between the parties, timescales may be extended.
2. Where it is confirmed that an ET application on the same matter has been initiated, then the NAECI Stage 4 application will not be further processed.
3. Where an application for a Stage 4 Dismissal Arbitration Panel is lodged, the parties will commit to attending the first available Panel Hearing date given by the NJC Office.

4. Where either of the parties cannot make the given date, every effort shall be made by the parties to provide alternative representation to ensure that the Hearing date is maintained.
5. When this is not possible and a delayed alternative Hearing date is requested by the appellant, the original hearing date shall be used by the Panel as the cut-off point where the Finding outcome is "Re-instatement with continuity of employment and without loss of pay".
6. An application may be made to the Panel to vary the cut-off point which they may agree to provided they are satisfied that the reason(s) for the delay(s) were unavoidable.
7. During the course of the procedural arrangements, the appellant may have found alternative employment. The Panel must be advised of periods of such employment and the FTO should submit a schedule of earnings and in line with Employment Tribunal accepted practice, where Dismissal Arbitration Panels arrive at a Finding of "Re-instatement with continuity of employment and without loss of pay" they will take into account any periods of employment since the dismissal where there was "no loss of pay" or during the alternative period of employment and or where the appellant was paid less than he would have by his original employer. The Panel will consider the differences in making an award and deciding on any offset.

Reference:

NAECI 14 & 15.8; NAECI Appendix F.