

# **Grievance & Disciplinary procedure for an Employer and Employee**

It is the right to the employer to dismiss a worker based on misconduct. The employment law does not lay down the any statutory procedure about dismissal and disciplinary procedure, but case law has laid down the certain rules that procedure must be fair and dismissal must be based on valid reasons. It is worthwhile that employment agreement must be clear and concise and there must no ambiguous provision. It is the prerequisite of the employment law that every employment agreement must tell the employee about the process of disciplinary procedure and about grounds of misconduct.

Employer must follow the following important principles in order to dismiss an employee. Such as:

- employer must have fair ground for dismissal;
- employer must follow a fair procedure;
- employer must follow the provisions laid down in employment contract;
- employer must provide the amount of notice to an employee where it is required;
- employer must follow the procedure laid down in the employment agreement.

## **The procedure**

### **Warning letter**

Employer must issue a warning letter to employee whom act is qualified as misconduct, which is a subject to dismissal.

### **Nature of misconduct**

Employer must intimate the employee about the nature of the problem before commencement of the disciplinary action.

### **Right to have a representative**

Employer must tell the employee that he has been right to have a representative along with him to attend the disciplinary proceedings.

### **Opportunity to respond**

Employer must provide a reasonable opportunity to an employee to respond to the allegations which are levelled against him before taking any disciplinary action against the employee.

## **Investigation into the allegations**

The employer must investigate the allegations comprehensively and without considering the irrelevant issues.

## **Opportunity to improve**

The employer may provide an opportunity to an employee for improvement of his conduct if the nature of allegation is not so serious.

Employer can dismiss the employee if the nature of allegations is so serious, and these are proven against him.

## **Employee on Trial period**

It is not necessary for an employer to consult an employee about the nature of allegations if the employee is on a trial period.

Employer may give the notice of dismissal to an employee who is on trial period, but the employee cannot challenge the unjustified dismissal.

## **Uniformity of the rules**

The employer must follow and observe the standard disciplinary rules and there must no discrimination based on sex, age, ace, religion, etc. This uniformity of the disciplinary rules will create a healthy and good atmosphere within the organisation.

## **Notice period**

If the employer wishes to dismiss an employee after following a fair procedure, then an employer must give a reasonable amount of notice to an employee. It is not necessary to give a reasonable amount of notice if the nature of allegation is so serious. The employee has an option to pay out the notice period and stop the employee from physically working.

## **Right of employee**

Employee has a right to challenge the decision of the employer under the Employment Relation Act 2000 that employer has failed to follow the fair and reasonable procedure.

[Net Lawman](#) provides the following types of [grievance, discipline & dismissal](#) and documents. Such as:

### **[Complaint invoking disciplinary procedure: letter to employee](#)**

Letter to an employee (after their first formal written warning) to instigate the start of your organisation's disciplinary procedure. Aids compliance with employment legislation.

### **Notification of disciplinary hearing: letter to employee**

Formal letter to be provided to the employee after internal disciplinary procedures have been exhausted.

### **Dismissal confirmation: letter to employee**

Letter to an employee confirming their dismissal. Provisions to add you own relevant and unique reasons, with notes and guidance on how to do this so that you comply with relevant legislation.

### **Warning letter: late arrival and bad attitude**

Official warning letter stating the worker has continuously arrived late and has had a bad attitude. Includes space to add specific examples to support your argument. Written as a formal letter, but can be adapted to be less formal if required. Suitable for all workers, not just those working in retail stores.