

# Week 8



## Ending The Contract And Unfair Dismissal

# Unfair Dismissal

- **Unfair dismissal** occurs when an employee is dismissed on unfair grounds.
- All employees are protected by the 'Employment Rights Act of 1996'. This act gives the employee the right not to be dismissed unfairly and also the right to claim unfair dismissal at an employment tribunal.

# Unfair Dismissal

- Unfair dismissal is the term used to describe an employer's action when terminating an employee's contract unfairly.
- Normally the employee's contract and employment legislation protect the employee from being dismissed unfairly, and allow recourse in law.

# Unfair Dismissal

- Where an employee has grounds to believe that he or she has been discriminated against in being dismissed, other laws may be relevant, such as (in Britain) the Race Relations Act, the Disability Discrimination Act (1995) and the Sex Discrimination Act.

# Constructive Dismissal

- Where the employee resigns or terminates his contract (without notice) due to some action on the part of the employer which is in breach of the contract, this is known as constructive dismissal.
- Most employees have a right to complain of unfair dismissal to an 'employment tribunal'.

# Reason Of Dismissal

- Dismissal is normally fair only if the employer can show that it is for one of the following reasons:
  - a reason related to the employee's conduct
  - a reason related to the employee's capability or qualifications for the job

# Reason Of Dismissal

- because the employee was redundant
- because a statutory duty or restriction prohibited the employment being continued
- some other substantial reason of a kind which justifies the dismissal
- and that the employer acted reasonably in treating that reason as sufficient for dismissal.

# The Compensation Of Dismissal Claim

- Making a constructive dismissal claim
- The information above summarizes generally under what circumstances the employees should consider a claim for constructive dismissal

# The Compensation Of Dismissal Claim

- So what happens if you do claim? Before considering a compensation claim you obviously need to know more about the process involved in taking your employer to a tribunal

# The Compensation Of Dismissal Claim

- The employees instruct an employment law solicitor who can act on their behalf:
- Representation
- Preparing your case
- Are employment tribunals fair
- What compensation will I receive ?
- Will I have to attend the tribunal hearings?

