

How to raise a personal grievance

ALAN KNOWLESLEY
LEGAL MATTERS



A personal grievance about your employment has to be raised with your employer within 90 days of when the grievance is alleged to have arisen.

Anything older than 90 days can be raised only if the employer agrees (very rare) or the Employment Relations Authority grants an extension of time (not very common).

Older circumstances are background only and cannot give rise to any findings of a breach or outcomes.

What is enough to raise a grievance?

A grievance is raised as soon as the employee has made the employer (or representative) aware of an alleged personal grievance that needs addressing.

To raise a personal grievance the exact phrase "personal grievance" does not have to be used and the grievance does not have to be raised in writing.

The grievance does not have to identify specifically what the employee wants to take place to rectify it, but the complaint must be made with sufficient details to allow the employer to take steps

to address it (it is not sufficient to say "I have a personal grievance").

The complaint has to be made in respect of a matter that falls within the definition of personal grievance (for example, an unjustified dismissal, or an unjustified disadvantage) and state or imply that the employee wants the employer to address the complaint.

Whether the above has occurred will depend on the particular facts of a case.

Although putting your grievance in writing is not required, it certainly is a good idea to state in writing that you are raising a personal grievance, along with details of the issue.

That removes any argument about what was said and what was raised. Many arguments have occurred when an employer disputes that an employee raised a grievance verbally. Avoid the argument and put it clearly in writing.

It also helps if you know what you want your employer to do about your grievance.

Some of the common things employees ask for are:

- Reinstatement if they have been dismissed.
- Lost wages.
- Unpaid wages or allowances.
- Compensation for the hurt and humiliation suffered.
- An apology.



In 2001 Winz boss Christine Raiton sued the Crown for breach of contract and personal grievance, a landmark case in New Zealand law.

PHOTO: FARFAX

■ A reference.

Not all of these outcomes are available if the case goes to the Employment Relations Authority. For example, the authority cannot order an apology or the provision of a reference.

An employer is only obliged to provide a record of service (dates of employment and job title).

However, these claims are

included in personal grievances because they can be agreed to at a mediation and it is good to let your employer know that you will seek them as part of the agreed outcome.

If you are not aware of all the remedies you are entitled to, or how to word your grievance to explain why you have a grievance, it pays to seek advice

from an employment professional to assist with putting matters down clearly.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733 484 or raineycollins.co.nz. If you have a legal inquiry you would like discussed in this column email aknowlesley@raineycollins.co.nz.