

Catalyst Mediation

A Case Study in Employer/Employee Disputes.

Brief details of the dispute

Party A was contracted by her employers, Party B to provide services to an outside establishment. The manager of this establishment had violently disagreed with her recommendations and banned her from the site. Despite several complaints to her employers that the manager had no right to act this way, they took no action. After two years of waiting for a response, during which she had to work at similar establishments, Party A resigned and lodged a Tribunal action.

Particular features

- Relationship issues: Party A was concerned that by ignoring the jurisdiction issue, her employers had created the same problem for her colleagues. She also felt her employers had treated her complaint as unimportant and effectively created an impossible working environment.
- Legal Issues: Party A had no desire to resume work with her employers, so a Compromise Agreement was likely.

Mediation

The parties were only communicating through their lawyers. At the start, the Claimant believed the employer would be unreasonable about any severance terms and would want to ignore the central jurisdictional issue. The Employer believed the Claimant would be unreasonable in her demands.

A pre-mediation meeting was held with Party A to reduce her fears about the mediation and help her to focus on the issues she wanted to raise. As a result Party A arrived well prepared to discuss and negotiate on the principal issues. Party B, represented by a new senior HR Director, started by apologising for the lack of support she had received, which helped to remove most of the emotion from the subsequent discussions. The mediators encouraged the parties to outline their ideal outcomes and put forward methods by which these might be achieved.

Outcomes

Aided by their advisors, it soon became clear that a mutually satisfactory outcome was achievable. This included an apology in writing from the employer, a full and final settlement sum and a signed Compromise Agreement. The breakthrough was an agreement that both parties would work together to identify how the underlying jurisdictional issue could be solved so that other employees would not face the same problem.

Learning points

- Pre-mediation meetings can be extremely effective in reducing the emotional stress of the conflict by focusing parties on the future.
- Even when a dispute has been going on for years and there is suspicion on all sides, frank, facilitated discussions can still lead to unexpected outcomes.

Note

Mediations are always confidential unless the parties agree otherwise, so while many details have been changed, the Clients comments are verbatim and the outcomes factual.

Dispute Duration

The conflict had been ongoing for three years.

Mediation Length

8 hours on one day.

Client Comments

"It has enabled us to maintain a relationship with the ex employee which may assist in avoiding similar conflicts in future."

"I believe that because of the approach taken not only by the ex employee but also by my clients it was possible to find in mediation a successful tool for resolving a dispute which had all the hallmarks of a long lasting Tribunal case. The skilled involvement of the mediators enabled us to reach a very good outcome, which was within our control."

"My ex-employers had the opportunity to say important things that helped me to move on and the adversarial aspect was greatly reduced."

Mediation Budget

Total cost circa £3,500.

