



University of Strathclyde
LAW CLINIC

6D. Submissions

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Outline

- ▶ What are submissions?
- ▶ What should I include in submissions?
- ▶ What should submissions be based on?
- ▶ General advice

What are submissions? (1)

- ▶ Legal submissions are the last part of your hearing. Normally these are oral submissions. Occasionally you will be asked to give written submissions. It helps to write down your submissions beforehand anyway. You can prepare a written submission to give to the Tribunal. You must also take a copy for the other side.
- ▶ You may not be able to prepare them in full as you may want to draw out issues from the evidence. However the Tribunal will usually move straight from the evidence to the submissions and so you need to be well prepared.

What are submissions? (2)

- ▶ This is where you convince the Tribunal that you have a legitimate claim.
- ▶ You lay out the facts as you believe them to be and the way you have presented them in evidence (i.e. the way you and your witnesses have presented the facts), you lay out the law you have researched for your case and then you apply the law to the facts in the way you think the law is interpreted.

What should I include in submissions?

- ▶ When dealing with the facts, remember that the Tribunal has just heard all of the evidence so you do not need to rehearse everything that has been said.
- ▶ You should concentrate on key facts which, if found to be proved, will determine the case. This is particularly so when the key facts are in dispute.
- ▶ You should set out what both sides say about the facts in dispute and why the Tribunal should prefer your client's evidence. If the other side's witnesses were not credible for some reason (eg. if their evidence contradicted each other) then you should make reference to this.

What should submissions be based on?

- ▶ The law can come from two places - 1. Legislation. 2. Cases.
- ▶ You need to be clear about what legal finding you are asking the Tribunal to make.
- ▶ Cases can be difficult to find but many are accessible through the Employment Appeals Tribunal (EAT) website. It can be a long and hard struggle to read through cases so it might be a good idea to get your hands on an up to date employment law textbook that will lay out the legal tests for different claims and also supplement the tests with cases/past decisions.
- ▶ You should also have sufficient copies of cases to which you refer to give to the Tribunal and the other side.
- ▶ At the end of the submissions you will have to also place a value on your claim based on your Schedule of Loss, and make submissions based on the evidence about this as to what amount the Tribunal should award.

General advice

- ▶ When setting out the law, it is useful to phrase this in terms of questions that the Tribunal will have to answer to determine the case.
- ▶ Your submissions may be questioned by the Tribunal either throughout or at the end.
- ▶ Be prepared to wait around six weeks for a judgment. (Depending on the case and the facts it could be more or less than this).