

EFFECTIVE DATE OF TERMINATION

DISMISSAL EFFECTIVE WHEN EMPLOYEE READS DISMISSAL LETTER

A recent decision of the Supreme Court in the case of *Gisda Cyf v Barratt [2010]* has confirmed that when an employee is dismissed summarily by letter, the effective date of termination is the date upon which the employee actually reads the letter or has a reasonable opportunity of discovering its contents.

Briefly, the facts of the case were that Ms Barratt attended a disciplinary hearing on the 28 November 2006. She was sent home and told to expect a letter concerning possible dismissal. The letter was sent by Gisda Cyf on the 29 November 2006 and arrived at Ms Barratt's home on the 30 November 2006 by recorded delivery where it was signed for by the son of her boyfriend. Ms Barratt was away helping her sister who had recently had a baby. Ms Barratt called home whilst she was away but did not ask about the letter. Ms Barrett returned late on Sunday night and opened the letter on Monday 4 December 2006.

Ms Barratt submitted a claim to the Tribunal on the 2 March 2007 and her employer argued that her claim was out of time as it was outside of the three month time limit. Ms Barratt argued that her effective date of termination was the date she opened the letter, not the date the letter was either written, posted or delivered to her home as Gisda Cyf argued.

The Supreme Court found that it was not reasonable for the 'clock to start ticking' on an employee's right to bring a claim before they have **actual knowledge** of their dismissal or a **reasonable opportunity to find out** that they have been dismissed.

👉 Practical Tip

In order to have certainty regarding the actual date of dismissal, this should be communicated verbally to the employee and followed up in writing.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact: Paul Chamberlain in Manchester on 0161 836 8864, Andrew Cross in Liverpool on 0151 600 3062 or Kevin James in Preston on 01772 229847.

If you no longer wish to receive the bulletin please let us know by return e-mail to kimberley.malcolm@brabnerscs.com

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LIVERPOOL

Horton House, Exchange Flags, Liverpool L2 3YL
0151 600 3000

MANCHESTER

55 King Street, Manchester M2 4LQ
0161 836 8800

PRESTON

7-8 Chapel Street, Preston PR1 8AN
01772 823921