

Judge Clare Tiffney

Employment Judge – Industrial Tribunals and the Fair Employment Tribunal

Appointed on 10 February 2020

Professional Background

Before my appointment I worked for over 19 years as a solicitor specialising in Employment law. I practised in Belfast and Dublin in both the private and public sector, most recently in the role of Solicitor Consultant in the legal services directorate of a public body which I held for 13 years.

What attracted you to apply for a position in judicial office?

Whilst I thoroughly enjoyed working as a solicitor in an area of law that I love, I had reached a point where I was ready for a new challenge and career progression. For me the role of Employment Judge was an ideal role. I regularly appeared in the tribunal when representing clients, so I was familiar with the tribunal procedure and had gained a good insight into the role of an Employment Judge. I was also particularly drawn to the intellectual challenges the role would present and the potential it gave me to contribute to society.

Overall, I perceived the role as giving me a chance to apply my knowledge and skills in a different environment whilst gaining a broader perspective of employment law and its application in daily life.

What is a typical day like as an Employment Judge?

Every day is different because plans often change. For instance, cases can be withdrawn or resolved so consequently, the work assigned to you on a particular day may not be the work you actually do. Moreover, an Employment Judge's duties are wide-ranging so there is no typical day, but overall, my core duties are to conduct hearings and write judgments.

Bearing all that in mind, there is a loose pattern to an Employment Judge's day. For instance, a final hearing usually lasts between one and five days. Generally, you receive the paperwork the afternoon before or the morning of the hearing. The paperwork includes witness statements and other supporting documentation. A period of reading time is allotted for you and the two other panel members to read the witness statements and pertinent documents. Thereafter you will be managing the hearing, listening to the evidence, and reaching a decision with your panel members.

Alternatively, you may be dealing with preliminary hearings which broadly fall into two categories. The first category are conducted like a final hearing but usually by a Judge sitting alone. The purpose of these hearings to address preliminary matters/applications relating to the proceedings which often impinge on the jurisdiction of the tribunal.

The second type of preliminary hearings are automatically listed after a claim and response form are received. The purpose of this type of preliminary hearing is to

ensure that a case is properly prepared for hearing. This is achieved by issuing time bound directions to the parties during these hearings which can be conducted in person or by teleconference. Usually, you are given a list of these to deal with on any given day and often in addition to other hearings/duties.

Other tasks include issuing judgements and giving directions which do not require a hearing, giving judicial directions to administrative staff on practice and procedure in respect of tribunals and in relation to the progress of a claim.

What are the biggest challenges you face in the role?

One of the main challenges stems from the fact that the tribunal is used by a wide range of people with differing levels of understanding of the law and tribunal procedure. Litigants are often self-represented and can find themselves facing solicitors and barristers on the other side. When conducting a hearing, part of the judicial role is ensuring that the necessary steps are taken to redress any imbalance experienced by a self-represented party so they can effectively participate in the proceedings whilst also ensuring that both parties receive a fair hearing. Often this involves explaining complicated legal concepts and/or tribunal procedure in clear and simple terms and signposting litigants-in-person to sources of support and information. This can be very challenging because in each case the measures required will vary in number and degree and it is also important to maintain impartiality and independence.

Another challenge associated with the management of the hearings is the need to multitask, often for prolonged periods. When listening to the evidence or to the representations of parties, you need to concentrate, absorb and record what they are saying whilst also identifying and addressing any issues arising. It requires you to be alert at all times. This adds to the intensity of the process, but it also adds to the enjoyment of the job.

Similarly, the area of law within the jurisdiction of the tribunal is complex and ever-changing, so I must ensure that I am up to date with such changes. The tribunal rules of procedure changed just before I started my judicial post. Familiarising myself with the new rules and applying them in a new role as a Judge was an additional hurdle.

Finally, the writing up of judgments is one of the biggest challenges of the role. Although the skills I acquired and developed as a solicitor undoubtedly help, the task is unique to the role of a Judge and requires a lot of time, thought and attention.

Which aspects of your professional experience as a Solicitor have proven most useful when carrying out judicial duties?

The oral and written communication skills I developed as a solicitor put me in good stead for the role of Employment Judge because they are key to performing many judicial duties, e.g., when interacting with parties at hearings and when drafting orders/judgments.

The time management and analytical skills I developed as a solicitor has enabled me to identify key issues and extract relevant information at pace, often from significant reading material, to ensure I am prepared for hearings.

Is the job what you imagined it would be?

Overall, I think it is. As an observer of the role for many years I expected the role to be interesting, but stimulating and it is living up to these expectations. There have been some surprises.

I had anticipated the duties relating to preliminary hearings would have fallen within my comfort zone because of my significant experience of these as a solicitor. However, it feels very new and different when you are participating in these in a different way. I am finding though that my confidence in the role continually grows with experience.

Also, the work is more varied and your day more unpredictable than I anticipated. I did not have an appreciation for the administrative aspects of the role and the importance of these to the operation of the tribunal process. Notably, the preparatory work carried out by the Judge in advance of hearings and the writing up that follows are invisible but significant aspects of the role. They are time consuming, but very important.

I have been an Employment Judge for over three years. While I have a good grasp of the role and what it entails, I am still encountering new tasks and challenges. I find this to be one of the most positive facets of the role.

There is also a strong collegiate approach which for me has been very comforting, especially given this is my first judicial appointment.

Has the role been conducive to a good work/ life balance?

Thus far, I have been pleasantly surprised at the good work life balance and better than I anticipated. As a private practitioner I had a lot of autonomy and flexibility as to how, when and where I carried out my work. The nature of the role of Employment Judge is such that there is less flexibility. This leads to a more intense and structured working day. I had reservations about this change in working style, but the more definite structure to my working day allows me to make personal arrangements ahead of time which I found slightly harder to do as a solicitor. There are peaks and lows in the role. Some days you are doing a lot more work or different work than you anticipated. Often you are required to carry out preparatory work at the last minute and at times outside of the working day. On other days, your working day is freed up, allowing you to get caught up on to outstanding tasks.

Would you recommend a judicial role to others?

I have thoroughly enjoyed the role thus far and would highly recommend a judicial role to others.

Whilst a judicial role carries significant responsibilities it also provides the opportunity to contribute to the resolution of disputes and has the potential to give excellent job satisfaction. Its varied nature keeps your interest levels high and the risk of boredom low!

Do you have any advice for those considering applying for judicial appointment?

My first piece of advice would be to recognise the skills you have acquired as a solicitor or barrister, particularly in the areas of analysis, communication, teamwork, and decision making as relevant transferrable skills to a judicial role.

It is also important to appreciate that it is normal to feel hesitant, even fearful about taking the step to apply but it is important to not let those feelings deter you if you are interested in the role and have the requisite skills and qualifications. It is also important to remember that there is a strong support network when you are newly appointed.

My personal interest in employment law and the experience I have gained in that area gave me the initial impetus to apply but I was also encouraged by the increasing number of solicitors being appointed in judicial roles - particularly in the Industrial Tribunals and the Fair Employment Tribunal.

My final piece of advice is to invest as much time and effort into the application process as possible. It is vital that you research the role you are applying for and the applicable jurisdiction. Utilise all sources of advice and information available, including the member of the judiciary assigned as the point of contact. In my experience they have been very generous of their time and encouraging. Applicants who may be hesitant because they have a non-contentious background should avail of judicial shadowing opportunities which give a valuable insight into the Tribunal or Court practices and processes.