

The phrase "constructive dismissal" describes situations where the Employer has not directly fired the Employee. Rather the Employer has failed to comply with the contract of employment in a major respect, unilaterally changed the terms of employment or expressed a settled intention to do either thus forcing the Employee to quit. Constructive dismissal is sometimes called "disguised dismissal" or "quitting with cause" because it often occurs in situations where the Employee is offered the alternative of leaving or of submitting to a unilateral and substantial alteration of a fundamental term or condition of his/her employment. Whether or not there has been a constructive dismissal is based on an objective view of the Employer's conduct and not merely on the Employee's perception of the situation. It is the Employer's failure to meet its contractual obligations that distinguishes a constructive dismissal from an ordinary resignation.

Fundamental changes to an Employees title, earnings or location of work are commonly recognized triggers of a constructive dismissal claim. In addition, the courts have recognized that Employers are contractually bound to treat their Employees with decency, civility and respect, and further, create environments where continued employment is tenable. If an Employer breaches this duty an Employee may have a claim for constructive dismissal.

The manner in which a constructive dismissal is alleged can often have a significant impact on how successful the action is. Thus, if you feel you have been constructively dismissed it is recommended that you speak to an employment lawyer prior to taking any steps vis-à-vis your Employer.