C: They sacked me on the grounds of my attendance record. I've been off work a lot the last few years. I don't argue with that. They said I'd taken 770 days sick over the last four years, which is probably true. I hadn't bothered to count the days, to be honest with you.

L: That's an awful lot of time to be off work sick. Why was that?

C: Well, that's the unfair part. I was very badly injured when I was on duty in June, four years ago. My colleague and I were called to a house in Birmingham late one night where there was a domestic dispute. It turned out to be a very serious argument between a husband and a wife. I was kicked in the head by the man of the house during the course of the incident. I lost my hearing in my left ear for months. It's still not completely better yet!

L: I see. That sounds terrible! So you would agree that you have had a lot of time away from work because you were ill but you would say in your defence that it's all due to an incident that happened at work. And on the basis of those facts you claim your dismissal is unfair?

C: Precisely! They are firing me for something that is not my fault. Surely they can't do this to me?

L: Well let's see, shall we? It depends on what procedures were followed and what the facts of the case are following the attack upon you four years ago. Let's start at the beginning. You say you were injured at work in June of that year?

C: Yes, that's right. The attack left me partially deaf.

L: Any other injuries? Any broken bones?

C: No. Just bruising to my face. The main problem was with my ear.

L: I see. And did that improve? Did your hearing return?

C: Yes, it did. After about six months my hearing was much improved. But being away from work had left me suffering from depression. I was alone at home day after day with nothing to do. I became very miserable and I had to return to the doctor for anti-depressant tablets.

L: But your initial injury was better? The injury to your ear. Am I right in saying that?

C: It wasn't completely better but the doctor said despite that, I was fit to return to work after six months, yes. It was my psychological condition, not my physical condition, that left me unable to work.

L: I see. And what did your employer have to say about that?

C: My supervisor was a woman called Roz Shannon. She was extremely unreasonable. Not very sympathetic, to say the least! She told me after I'd been absent for a year that she was doing all she could to help me and that I had another 12 months to improve my attendance record. She said that as long as I was employed she couldn't recruit anyone to replace me and my colleagues needed help. It was horrible. I was made to feel very guilty.

L: There's a good chance that she will say exactly that at the tribunal. It's a fair point to make, that they couldn't do without you for too long, especially once you had recovered from your initial injury. I'm afraid that some employers are not too sympathetic about depression and believe that going back to work is the best solution to the problem.

C: That's exactly the attitude she had! She wrote me a letter last week saying that she would file a defence saying I'd only managed to work for six weeks in the last four years and that I refused to return to work.

L: And is that true? Have you only worked for six weeks since the attack?

C: Yes. I was recovering from the attack at work and became depressed. Then my closest friend moved away to Australia and that made me worse. My mother became very ill. Everything seemed to be too much for me. They offered me the chance to go back on a part-time basis at first but I couldn't even manage that.

L: I see. Well Mr Winter, if your employer has followed the correct procedures and has tried to support you in your return to work, I don't really think you have much chance of success. You will have to convince the tribunal that your employer has acted unreasonably and I'm not sure that that's true in this case.

C: Really? So you agree with them?

L: Not at all, you have my full sympathy. But I'm afraid the tribunal has to be realistic. On the basis of what you've told me today I would advise you to think again before proceeding with your claim.

C: I see. I'll think about it. Thank you.

UNIT 5B
THE LANGUAGE OF THE LAW OF TORT

UNIT LISTENING

Professor: Today's lecture is a general introduction to the law of tort.

First of all, let's ask ourselves 'what are the aims of this area of law?' Why do we need to have a law of tort, or as some people call it, the law of obligations, at all? Those are questions that really require a lengthy answer because the law of tort covers so many different situations in life. On a very general level however, we can say that the law of tort is concerned with the idea of redress.

Students often ask me for a precise definition of 'redress', because it's not a word that you hear used in the street every day. I would say that redress means to remedy a wrong. To restore the balance of things. A person who has suffered a wrong wants to be put back in the situation that they were in before. A member of the public will usually describe this as a process of compensation rather than redress. This is probably because the claimant, in the vast majority of tort actions that come before the courts, is seeking monetary compensation for the wrong that he or she has suffered. To those in the legal profession, this monetary compensation is more correctly known as 'damages'. So please don't confuse the two terms. Redress and compensation are quite different things.

Let's stick with the idea of redress for a moment. We've established that monetary compensation is one type of redress. What else can the courts offer to the injured party? Well, in many cases the claimant is not seeking money at all, but an injunction to prevent the occurrence of harm in the future. If we take as an example a case of the tort of nuisance, which is the tort of interfering with an individual's enjoyment of his or her land, you can clearly see that the defendant is engaged in a continuing act. Let's say the nuisance is one of noise. Damages are available to the defendant but are clearly not the desired remedy for a claimant who is suffering over a long period of time. The claimant wants the nuisance to stop and the obvious remedy is therefore, injunction.

So, having established that the law of tort is concerned with redress and that this redress can take several forms, let's now turn to the question of liability in tort. We would correctly term this, 'tortious liability'. What is the scope of this liability in our legal system? It is absolutely impossible for every act in society that causes harm to another to lead the victim to demand a remedy. If, for example, I start a business such as a café in an area where there is already a café and I provide a better service, then I have caused my