

## EMPLOYMENT APPEALS TRIBUNAL

APPEAL OF:

CASE NO.

EMPLOYEE - *appellant*

UD1552/2010

against the recommendation of the Rights Commissioner in the case of:

EMPLOYER – *respondent*

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2007

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. P. McGrath

Members: Mr. B. Kealy  
Ms. M. Maher

heard this appeal in Dublin on 24<sup>th</sup> October 2011

Representation:

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Appellant: Mr Damian Reilly, McKeever Rowan, Solicitors, 5  
Harbourmaster Place, IFSC, Dublin 1

Respondent: No appearance by or on behalf of the respondent

The Tribunal is satisfied that the respondent was properly notified of the hearing. Neither the respondent nor a representative on its behalf attended the hearing.

### Determination

This case comes before the Tribunal by way of an appeal from the finding of the Rights Commissioner dated 26<sup>th</sup> May 2010. This proceeds as a de novo hearing.

The Tribunal has carefully listened to the evidence adduced herein. There was no appearance

made by or on behalf of the respondent company so that the appellant's evidence was not challenged.

The claimant described his work history from January 2000 to the date of his departure in November 2009. As this is a case of constructive dismissal, the onus rests with the claimant to establish that he was left with no alternative other than to resign his position by reason of the behaviour of his employer.

The Tribunal is absolutely satisfied that the claimant's employer has behaved in such a way that the claimant's decision to tender his resignation was reasonable and appropriate in all the circumstances. There was a sustained campaign of arbitrary and capricious behaviour directed against the claimant such that his continued employment with the respondent company was untenable to him.

In light of the foregoing, the Tribunal awards the claimant the sum of €28,000.00 for loss of earnings under the Unfair Dismissals Acts 1977 to 2007.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)