

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

Employee

UD47/2007  
MN32/2007

against

Employer

under

### **MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 UNFAIR DISMISSALS ACTS, 1977 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr. P. O'Leary B L

Members: Mr. R. Prole  
Mr G. Whyte

heard this claim at Dublin on 28th May 2007

Representation:

\_\_\_\_\_

Claimant(s): Ms. Mairead Carey BL instructed by Mr. Barry Powderly, David Powderly,  
Solicitors, The Square, Kilcock, Co. Kildare

Respondent(s): No representation or attendance by or on behalf of the respondent.

The determination of the Tribunal was as follows:-

#### **Claimant's Case**

At the outset of the hearing the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 was withdrawn.

The claimant told the Tribunal that her employment commenced on 16 September 2005. She worked from her home and she never worked in the UK. She was in receipt of a salary of €1666.00 per week. She had a company car and the respondent paid her pension and health insurance contributions. She was dismissed on 20 November 2006 and she was unemployed for nineteen weeks.

## **Determination**

### **The Jurisdiction of Courts and Enforcement of Judgments. Act, 1998.**

The Tribunal is mindful that there are no procedures at present dealing with the Jurisdiction of Courts and Enforcement of Judgments Act, 1998.

The claimant's representatives were made aware of this but requested the Tribunal to proceed in the matter. The onus of proof is on the employer to establish that the dismissal is fair in all the circumstances. The employer chose not to attend the hearing. The Tribunal is satisfied that under the Unfair Dismissals Acts, 1977 to 2001 that the Tribunal has jurisdiction to hear and determine the issues in this case as the claimant was required to work within this jurisdiction.

Section 13 of the Unfair Dismissals Act 1977 deems any condition of a contract that attempts to oust the jurisdiction of the Tribunal in an unfair dismissal is null and void.

In the circumstances and on hearing the uncontested evidence of the claimant, the employer having been given an opportunity to attend the hearing the Tribunal determine that the claimant was unfairly dismissed. The Tribunal also determine that compensation is the most appropriate remedy in this case and award her the sum of €35,200 under the Unfair Dismissals Acts, 1977 to 2001.

As the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 was withdrawn no award is being made under this Act.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

