

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD91/2006, MN48/2006

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 J. Sheedy

Members: Ms M. Sweeney
Mr K. O'Connor

heard this claim at Cork on 20th February 2007

Representation:

Claimant : Messrs James A Sheridan, Solicitors, The Mall, Riverside Way, Midleton, Co. Cork

Respondent : No representation listed

The determination of the Tribunal was as follows:

The Tribunal is satisfied that the respondent was properly informed of this hearing. Neither the respondent nor a representative on his behalf appeared for the hearing.

Claimant's Case

The claimant commenced employment with the respondent in October 2003. He was heavily involved with this business working in excess of sixty hours a week. The witness oversaw the delivery, preparation, and serving of food. His agreed weekly wage was €325.00 but he seldom received that amount as his terms and conditions of employment "depended on the respondent's mood". According to the claimant he paid his employer €4,500.00 for a work permit and was in possession of a fake foreign passport which was also purchased from the respondent.

Even though the claimant was at some stage a partner with his employer in the lease of the premises he held an employee status with the respondent. By the summer of 2005 the claimant was suffering from ill health due to the treatment he was subjected to at work. At times he felt blackmailed from his employer. As a consequence of his adverse working conditions the claimant felt he had no other reasonable option but to resign from the respondent in July 2005.

Respondent's Case

No evidence adduced.

Determination

Having heard the uncontested evidence the Tribunal finds that the claimant was justified in terminating his own employment. Accordingly he is awarded €4225.00 under the Unfair Dismissals Acts, 1977 to 2001.

Since this was a case of constructive dismissal the appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 does not apply and is therefore dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

