

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

Employee

CASE NO.

MN347/2006

UD541/2006

WT169/2006

against

Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997
UNFAIR DISMISSALS ACTS, 1977 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr W. Power
Ms. E. Brezina

heard this claim at Dublin on 19th February 2007

Representation:

Claimant(s) : Mr Ivan Williams, Ivan Williams & Co Solicitors, 1 Convent Road, Dalkey
Co Dublin

Respondent(s) : Not present or represented

The determination of the Tribunal was as follows:-

Claimant's Case

The claimant gave evidence. He explained that he had commenced employment in the pub on April 22nd 2002. At the time the pub was owned by a different company but was taken over by the respondent in January 2005.

In January 2006 he requested six weeks leave to go home to China. He explained that before he commenced his travels, his name had appeared on the work roster. He returned on April 1st 2006 and a few days later when to his place of employment and spoke to his Supervisor as to when he was rostered to work. His name was not on the roster to work. The Supervisor told him that she would have to speak to the Manager after he returned from leave. A couple of days later the claimant went to speak to the Manager and was informed there was "no room" for him

and he would have to wait. The claimant requested payment for his six weeks annual leave and was offered only one week. He later accepted it.

Three weeks later, on April 15th 2006, he rang his Supervisor and was told to come and see her. His Supervisor informed him that if he complied with the rules there was a position for him. He agreed and was told to come to work two days later. Later that day he received a text message from his Supervisor informing him that there was “no room for him”. The claimant explained that he knew there was something wrong as he had noticed a former member of the lounge staff carrying out the claimant’s duties.

On May 1st 2006, the claimant was told by a colleague informed him that the Manager was in the office if he wanted to see him. The claimant went to the office and was told there was no job for him. He requested a payslip for clarify his financial affairs. The claimant said that he felt he was dismissed.

When asked the claimant said that he went immediately to another job.

Determination

Based on the uncontested evidence adduced by the claimant the Tribunal finds that his dismissal was unfair and awards the sum of €1,276.32 under the Unfair Dismissals Acts, 1977 to 2001.

In addition the Tribunal awards the claimant the sum of €623.76 under the Organisation of Working Time Act, 1997, this being a combination of thirty five point two hours as payment for holiday pay and 6 public holidays.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)