

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

Employee

CASE NO.

WT358/2006
MN761/2006

against
Employer

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S C

Members: Mr P. Pierce
Mr. S. O'Donnell

heard this claim at Dublin on 27th April 2007

Representation:

Claimants(s) : Mr. Joe Donnelly, Divisional Organiser, Mandate Trade Union,
O'Lehane House, 9 Cavendish Row, Dublin 1

Respondent(s) : Mr. N. Hopkins

The decision of the Tribunal was as follows:-

Determination

The respondent defended the claim for Minimum Notice under grounds of dismissal for misconduct. It was alleged that she misstated her working hours on the timesheet. The claimant agreed that she overstated hours on one particular day, but she added that she understated hours on other days, when she worked excess hours. She did not overstate her hours on a monthly basis and did not defraud the company in any way.

Having viewed the timesheet and other documents including her contract of employment it is clear that the timesheet in this case is not so important a document. She was paid an annual salary and not an hourly rate. She said the area manager instructed her not to state the actual hours worked so long as her average monthly hours were in order. The area manager, who dismissed the claimant, did not attend to contradict this.

We find that the respondent has failed to justify its defence of "misconduct" and award €480

compensation under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, this being one week's pay. The pay under the Organisation of Working Time Act, 1997 was conceded and we award two days holidays in the sum of €176.96

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)