

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

UD220/2007
MN142/2007

against

Employer

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. P. McGrath B.L.

Members: Ms. J. Winters
Mr. G. Lamon

heard this appeal at Dublin on 6 July 2007

Representation:

Claimant:

Mr. Austin Heffernan, Austin Heffernan & Co. Solicitors,
20/21 Quinsboro Road, Bray, Co. Wicklow

Respondent:

Mr. Simon Sheridan, Society of the Irish Motor Industry,
5 Pembroke Street, Dublin 2

The determination of the Tribunal was as follows:

Determination:

The Tribunal has carefully considered the evidence adduced. There is no doubt that the relationship between employer and employee broke down. The claimant says it was because he was reluctant to work longer hours. The respondent states that the claimant's work had become careless. There were clearly tensions in the workplace and the claimant was given several warnings, both verbal and written. These related to specific incidents which arose, including a loose wheel, incorrect brake pads and a missing oil filter cap. Such incidents are clearly embarrassing for a company but the reality is that the claimant was still only an apprentice and his work must be supervised in accordance with Fás demands.

What happened here is that the respondent became frustrated and sought to move the claimant to another job with the full co-operation of both Fás and the claimant. The claimant did not wish to leave and became upset at the prospect of being “sacked”. In evidence the proprietor of the respondent accepted that there was a dismissal and that he did tell the claimant that he was sacked. Whilst the Tribunal has no difficulty in a dismissal being effected for non-performance or poor performance no proper formal disciplinary procedure or process was followed in this case. The claimant was afforded no opportunity to defend his position. In such circumstances the Tribunal finds that the dismissal was unfair and awards €1,500.00 under the Unfair Dismissals Acts, 1977 to 2001 and in particular having regard to the Tribunal’s discretion under section 7 (1) (C) (ii) of the principle Act (as amended). The evidence having shown the claimant was not paid any period of notice the Tribunal awards €850.00, being two weeks’ gross pay, under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)