

## EMPLOYMENT APPEALS TRIBUNAL

**CLAIMS OF:**  
Employee

**CASE NO.**  
MN183/2007  
UD276/2007

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: Ms. N. O'Carroll - Kelly BL

Members: Mr. D. Moore  
Ms. M. Mulcahy

heard this claim at Dublin on 17th July 2007

#### **Representation:**

Claimant: Mr. Andrew Cody solicitor of Reidy Stafford, Solicitors, 1-3 Moorefield Terrace,  
Newbridge, Co. Kildare.

Respondent: Mr. Breffni O'Neill, Construction Industry Federation, Construction House,  
Canal Road, Dublin 6.

The determination of the Tribunal was as follows:-

The claim under to Minimum Notice and Terms of Employment Acts, 1973 to 2001 was withdrawn.

#### **Respondent's Case:**

The Health and Safety manager with the respondent gave evidence. He stated that the claimant was employed in January 2005 as the health and safety officer on a site for 500 apartments in North Dublin. The witness was present at the meeting where the claimant was let go. He was not consulted about letting the claimant go. The claimant was the senior health and safety officer with the respondent. The claimant was hardworking, but there was an issue with his people skills. The respondent usually employed five health and safety officers, another one was employed, the witness was not involved in this. When the claimant was let go another health and safety officer took over on the site. She has a diploma qualification, while the claimant has a certificate qualification. She was not as experienced as the claimant. After the claimant was let go there were again 5 health and safety officers employed by the respondent.

There were plans to transfer the claimant to a site North of Drogheda. However the site never opened. The respondent is a healthy company that hopes to get further contracts.

The company accountant gave evidence. He confirmed the details of the claimant's salary, expenses and bonus.

**Claimant's Case:**

The claimant gave evidence. His job was to look after the day to day management of safety on the particular site. He was informed that he was let go because of a downturn in business. The health and safety manager was shocked that he was let go. Before he left he introduced his replacement to the site and showed her where things were filed. The claimant had obtained another job, but at a reduced salary.

**Determination**

The Tribunal is satisfied that a redundancy situation did not exist in this case. The Tribunal finds that the claimant was unfairly dismissed. An award of €12,000.00 is made under the Unfair Dismissals Acts, 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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