

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

Employee

CASE NO.

MN276/07
RP172/07
UD402/07

Against

Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
UNFAIR DISMISSALS ACTS, 1977 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. P. O'Leary B.L.

Members: Mr J. Horan
Mr P. Trehy

heard this claim at Dublin on 4th September 2007.

Representation:

Claimant : In Person

Respondent: Mason Hayes & Curran, Solicitors, South Bank House, Barrow
Street, Dublin 4

The determination of the Tribunal was as follows:-

Determination:

At the outset of the hearing the respondent acknowledged the claimant was unfairly dismissed.

An application was made by the representative of the respondent to the Tribunal for the sum paid to the claimant in respect of redundancy by the respondent to be offset against any compensation awarded to the claimant under the Unfair Dismissals Acts, 1977 to 2001. The Tribunal has no authority under the Unfair Dismissals Acts, 1977 to 2001 to do this. Money paid by mistake would have to be recovered at common law from the Courts. The Tribunal is limited in its jurisdiction to the powers given it under the legislation within which it operates.

The Tribunal was supplied with the information as to the claimant's loss. The Tribunal determined that the claimant was unfairly dismissed and considered that compensation is the most appropriate remedy in this case as the acknowledged preferred remedy of the respondent and the claimant. The Tribunal determined that a sum of €20,000.00 under the Unfair Dismissals Acts, 1977 to 2001 in compensation should be paid by the respondent to the claimant in respect of financial loss suffered and prospective loss.

The claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 was satisfied prior to the hearing and as remedies under the Redundancy Payments Acts, 1967 to 2003 and the Unfair Dismissals Acts, 1977 to 2001 are mutually exclusive, the redundancy claim fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

