

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD196/2006

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. Ó Catháin
Members: Ms M. Sweeney
Mr J. McDonnell

heard this claim at Waterford on 4th September 2007
and 5th September 2007

Representation:

Claimant:

Mr. Emmet Halley, M. M. Halley & Son, Solicitors, 5 Georges
Street, Waterford

Respondent: Mr. Tom Mallon BL instructed by Jill Woods, Arthur Cox,
Solicitors, Earlsfort Centre, Earlsfort Terrace, Dublin 2

The determination of the Tribunal was as follows:

The Tribunal heard extensive evidence from the Respondent and the Claimant. The Respondent company manufactures wood products and it involves a heavy industrial process. The Claimant was a supervisor in the company. The company stressed that they have to have a very high degree of health and safety protocol. The Claimant was dismissed because he twice transgressed the safety protocol. The Claimant gave evidence that he did this on the second occasion and that on the first occasion he did not and that the first alleged incident had happened many years before. When the first incident initially came to light the Claimant and another worker denied the incident. Some years later, in or around Friday 1st October 2005 the head of HR/HR manageress decided to open an inquiry or re-open an inquiry into the first incident. She told the Tribunal that it was because of the persistent rumour in the factory about the incident. She asked the other employee who originally denied that an incident took place and he changed his story (In written form) to say that it had happened. The employee was suspended and demoted because he had earlier denied the incident. She informed the Claimant that an investigation would take place about the incident although events overtook the matter, (See below). The Claimant in giving evidence denied that a safety violation had taken place in 2003.

The following Monday 3rd October the operations director of the company saw the Claimant breaking safety protocol. (In cross-examination the Claimant accepted that he had breached safety protocol on that occasion). The operations director asked for an investigation into the matter and the production manager carried this out. The production manager subsequently recommended that the Claimant be dismissed and he was. The Claimant appealed this and the head of HR/HR manageress upheld the dismissal. He further appealed the dismissal and his dismissal was upheld.

Determination:

The Tribunal are not satisfied that the Claimant was not singled out. The Tribunal are of the view that he contributed substantially to his dismissal. The Tribunal awards the Claimant the sum of €16,500.00, as compensation, under the Unfair Dismissals Acts, 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)