

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee

MN299/2007

against

Employer

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr M. Kennedy
Mr C. Ryan

heard this claim at Dublin on 3rd September 2007

Representation:

Claimant :
In Person

Respondent :
Director

The decision of the Tribunal was as follows:-

Claimant's case:

The claimant worked with the respondent as an apprentice from 4th January to 16th April 2007. He applied for holidays from 5th – 12th April and his request was granted by the foreman who suggested that he stay out on 13th April also which was a Friday. As far as he was concerned he was allowed to take the leave. On 2nd April he felt unwell and sent a text message to the foreman to let him know he would be in later in the week if he felt better however he was unable to do so. He then went on his holidays and sent two text messages to the foreman to remind him about payment for his holidays. On 16th April he returned to work and was summoned to the office by the director and asked to explain his absence. When he told him he was on holidays it transpired that the foreman had not logged the holidays in the journal. He was then asked if he had a medical certificate but he did not have it with him at that time. He was then told that his employment was being terminated and that his holidays would serve as his notice due. The only payment the claimant received was in respect of holidays.

Respondent's case:

The claimant worked for the respondent for twelve weeks as an apprentice carpenter. Around mid April 2007 the volume of work had diminished. The respondent's work is based at exhibitions. The claimant asked for the week's holidays and he was told he could not take the time off. Witness did not deal with his request initially. The claimant was under the impression he was entitled to holidays and he made the request to the foreman. There were three occasions when the claimant was absent from work. The claimant returned to work on 16th April and the respondent was under the impression that he had only twelve weeks service and was therefore not entitled to notice. Witness conceded that if the Tribunal ruled that the claimant had thirteen weeks service then they would pay the notice due.

Determination:

Having heard the evidence in this case the Tribunal is satisfied that the claimant did have thirteen weeks service therefore he is entitled to be paid €517 which is the equivalent of one week's notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

