

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

WT124/2007

MN287/2007

MN135/2007

Employee

WT322/2007

Against

Employer

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 ORGANISATION OF WORKING TIME ACT, 1997

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:-

Appellant's case:

The appellant was the restaurant manager. On 18th March 2007 he was told that the restaurant would not be opening that day and they would let him know the following day as to what the position was after that. The next day he was told the restaurant would not be opening over the following six weeks and that he would receive his wages and holidays with the final payment. He did not receive the monies as promised and is owed three weeks wages, two weeks holiday pay and payment in respect of minimum notice. In relation to the arrears of wages he has lodged a claim

with the Rights Commissioners office.

The first named appellant also represented the second named appellant and since she has now returned to Poland he requested that any correspondence be sent to his address. She is due holidays for January, February and part of March. She is also due payment in respect of minimum notice.

Respondent's case:

One of the directors told the Tribunal that the restaurant was set up in 2005 and it ran until 18th March 2007. They ran into financial difficulties and could not continue to trade. Having sought other investors they found an interested party who were to take on the liabilities of staff and suppliers however this deal fell through. They were then advised to sell the business and it has been on the market since April 2007. Initially it went on the market for €200K and since there weren't formal offers the price dropped to €90K. On 27th June 2007 notice was issued from the landlord to quit the premises and he and his co-director said they would go to the High Court to retain the premises. They also looked at the option of calling in a Liquidator. On the day of the hearing they did not have a buyer for the business. The respondent realises its obligations to the employees and has sought advice on the matter. He conceded both appeals.

Determination:

Having heard the evidence the Tribunal is satisfied that the first named appellant is entitled to payment of €576.92 which is the equivalent of one week's wages under the Minimum Notice and Terms of Employment Acts, 1973 to 2001. He is also entitled to €1,153.84 which is the equivalent of two weeks holiday pay under the Organisation of Working Time Act, 1997.

In relation to the second named appellant she is entitled to payment of €249.21 which is the equivalent of one week's wages under the Minimum Notice and Terms of Employment Acts, 1973 to 2001. She is also entitled to €249.21 which is the equivalent of one week's holiday pay under the Organisation of Working Time Act, 1997

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

