

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

UD767/2006

RP388/2006

MN509/2006

against

Employer

under

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

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. J. Fahy

Members: Mr. T. Gill
Mr. M. McGarry

heard this claim at Castlebar on 6th September 2007 and 12th December 2007

Representation:

Claimant : Mr. Thomas Lally, Information Officer, Citizens Information Centre,
Cavendish House, Link Road, Castlebar, Co. Mayo

Respondent : Mr. Patrick Dillon Malone B.L., instructed by
Company Solicitor

The determination of the Tribunal was as follows:-

This case was part heard by the Tribunal on 6th September 2007. The resumed date of 12th December, 2007 was set to continue the case and the parties duly notified. On the morning of 12th December, 2007 the claimant's representative told the Tribunal that he had received a telephone call from the claimant at 8am stating he was in Limerick Regional Hospital with his elderly mother who had taken ill that morning. As he was unable to travel to Castlebar for the hearing, he asked his representative to seek an adjournment on his behalf. His representative received a Fax from the claimant at 10am on 12th December, 2007 stating his reason for seeking an adjournment.

The Tribunal asked that independent verification be submitted by Fax from the hospital to verify his mother's attendance at the A & E or her admittance to Limerick Regional Hospital. The Tribunal having afforded him the opportunity to have the Fax submitted, his

representative stated that the claimant was unable to get the independent verification as requested by the Tribunal. The Tribunal then directed that this Fax be submitted no later than 12 noon on the following day, 13th December, 2007. If such Fax was received it would grant the adjournment and failure to do so would result in the case being struck out for failure to prosecute.

The claimant's representative asked if the case could be concluded as scheduled in the absence of the claimant since it was the respondent's case to prove the dismissal was fair. The Tribunal responded that it was necessary in the interest of fairness to have the claimant present and it was not proceeding in his absence.

The Fax was not received by 12 noon on 13th December 2007 as requested by the Tribunal nor has any Fax or other communication been received by the Tribunal since that date.

Determination:

As the claimant failed to produce within the time stipulated by the Tribunal, from Limerick Regional Hospital, verification of his mother's attendance at the hospital on the morning of 12th December, 2007 his claims under the Unfair Dismissals Acts, 1977 to 2001, the Redundancy Payments Acts, 1967 to 2003 and the Minimum Notice and Terms of Employment Acts, 1973 to 2001 are dismissed for want of prosecution.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)