

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:

CASE NO.

Employee

MN792/2007

UD1019/2007

WT340/2007

Against

Employer

under

### MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001 ORGANISATION OF WORKING TIME ACT, 1997 UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms P. McGrath B.L

Members: Mr M. Noone  
Mr. P. Woods

heard this claim at Dublin on 27th February 2008

Representation:

\_\_\_\_\_

Claimant(s)        The claimant in person

Respondent(s):    Company Representative

The determination of the Tribunal was as follows:-

#### **Respondent's Case**

The financial director for the respondent told the Tribunal that on 13 October 2007 the claimant worked for DSM demolition. At 2.30a.m. the power went out in the hut due to a faulty fuse.

The claimant started a fire in a trolley and brought it into the security hut, which caused damage to the hut. Ultimately the respondent was removed from the site and it lost out on three contracts, which was approximately eight per cent of business at the time.

#### **Claimant's Case**

The claimant told the Tribunal he had been on a seventeen-hour shift and there was no electricity for the duration of the shift. The respondent told him that he should sit in the car if he needed to keep warm but he did not have his car in work that day. He filled a trolley with wood, and lit a fire and he brought the trolley to the hut to keep warm. Management told him what he did was not fair and he was called to the office and dismissed. He submitted a written complaint to management on two or three occasions.

### **Determination**

The Tribunal has considered the evidence given by the Financial Director on behalf of the respondent company and the claimant in person. The Tribunal also had the benefit of viewing uncontested photographic evidence

The Tribunal finds that the claimant's behaviour was reckless. Under no circumstances can it be acceptable that a person would light a fire in a shopping trolley and then bring the trolley inside a security cabin. Such actions are manifestly dangerous and thereby unacceptable workplace practice.

The Tribunal accepts that the claimant may have been cold but his options including calling into head office and requesting an immediate replacement which was not done.

Accordingly the Tribunal dismisses the claim under the Unfair Dismissals Acts, 1977 to 2001.

The claimant is not entitled to minimum notice under the Minimum Notice and Terms of Employment Acts, 1973 to 2001. No evidence was furnished regarding holiday pay, therefore the claim under the Organisation of Working Time Act, 1997 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

