

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD656/2007

against
Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. D. Mac Carthy S.C.

Members: Mr R. Murphy
Ms. E. Brezina

heard this claim at Kilkenny on 17th January 2008

Representation:

Claimant:

Mr Gerald Meaney, Gerald Meaney, Solicitor, 17a William Street, Kilkenny

Respondent:

Ms. Mary Molloy, Mary Molloy, Solicitor, Commissioner For Oaths, 2 Rose Inn Street, Kilkenny

The determination of the Tribunal was as follows:-

The claimant started work in March 2006 to assist with the construction, building and outfitting of the respondent's hotel. This went on for a number of months. When the work was completed, the claimant asked the respondent for hotel work. The respondent agreed to give the claimant hotel work and, in late 2006, the claimant changed from working on construction to working in the hotel kitchen. The claimant accepted this change. The respondent kept the claimant in constant employment, which ran over a year. The Unfair Dismissals Acts, 1977 to 2001 apply.

Was the claimant dismissed? There is no doubt that he was. Under the Act, the employer must show substantial grounds for dismissal. The respondent gave evidence. He is responsible for the claimant. He described the claimant's behaviour in the kitchen. The claimant had differences with other staff and there were difficult scenes. The respondent told the claimant to stop but he did not give him anything in writing. Under law, a dismissal is deemed to be unfair unless there is evidence to the contrary.

The Tribunal is of the view that the claimant is responsible for a lot of what happened.

It was he who asked for the job. Problems arose when the reduction in hotel business caused the work available to run down. At a meeting with the respondent to discuss this, on 1st April 2007, there is no doubt that the claimant went in with a confrontational attitude and a tape recorder with the intention of 'setting up' the respondent. The Act states that regard shall be had to the contribution of the employee.

The claimant's job would have disappeared eventually and his long-term future in the job was limited.

The Tribunal is not impressed by the failure of the claimant to find work in the building industry following his dismissal. The building industry was booming at the time.

The Tribunal, therefore, is making a modest award to the claimant, which is just and equitable under all the circumstances. The Tribunal awards the claimant the sum of €2,500.00 under the Unfair Dismissals Acts, 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)