

**EMPLOYMENT APPEALS TRIBUNAL**

**CLAIM OF:**

Employee

**CASE NO.**

MN380/07

WT163/07

UD520/07

**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: Mrs. M. Quinlan

Members: Mr. D. Winston  
Mr. N. Broughall

heard this claim at Naas on 5th March 2008.

**Representation:**

Claimant : Mr. Pat Reidy, Reidy Stafford, Solicitors, Kilcullen, Co. Kildare

Respondent: In person.

The determination of the Tribunal was as follows:-

**Respondent's Case:**

The Respondent outlined to the Tribunal the claimant's role in the company. He was initially employed as a kitchen porter and progressed to wine waiter. The claimant failed to keep proper records of wine stocks and had to be reprimanded on a regular basis. Wine stocks did not correspond with sales for which he was responsible. He paid the claimant two weeks notice when he dismissed him and offered the claimant, through his solicitor, outstanding holiday money and an ex gratia payment but the offer was declined.

Under cross-examination the respondent said the claimant did not receive his written terms of employment. The claimant was trained by the Manager and was dismissed for incompetence.

**Claimant's case:**

On 28<sup>th</sup> April 2007 the claimant in a conversation with the respondent learned of his dismissal. The respondent informed him of a downturn in business in recent months, that he had too many staff and that he was no longer required to work in the company. He told the claimant that stocks of wine were missing. The claimant did the stocktaking of wines together with the Manager so if mistakes were made the blame should not have rested solely with him. He believed all wine sales were accurately recorded on the stocktake sheet.

The claimant established loss for the Tribunal.

**Determination:**

The Tribunal having carefully considered the evidence find that the claimant was unfairly dismissed. No proper procedure was used to effect the dismissal and the claimant was given no opportunity to appeal the decision to dismiss him. Accordingly, the Tribunal awards him €658.00 under the Unfair Dismissals Acts, 1977 to 2001. The Tribunal is satisfied that the claimant has already received his minimum notice entitlement, therefore the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 is dismissed. The Tribunal also awards the claimant €117.00 under the Organisation of Working Time Act, 1977.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

