

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD1281/2006

against
Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr. S. Ó Riordáin B.L.

Members: Mr. J. Browne
Mr. D. McEvoy

heard this claim at Waterford on 15th November 2007

Representation:

Claimant: Ms. Marcella Sheehy, Scott Ryan, Solicitors, Willow House, Mary Street,
Clonmel, Co. Tipperary

Respondent: No appearance or representation.

The Tribunal was satisfied that the respondent had been properly notified of the above hearing.

The determination of the Tribunal was as follows:

The claimant commenced employment with the respondent as a security officer in February 2004. The claimant became ill on the 27 August 2006. He unsuccessfully attempted to contact a colleague to cover his shift for the following day. The claimant attended late for work on the 28 August 2006. The foreman was waiting at the site when the claimant arrived. The claimant explained his situation to the foreman, telling him he was ill and needed to return home. The foreman told the claimant that his employment was finished and to return home. The claimant did not recall receiving any monies in the week after his dismissal. The claimant established his loss.

Answering questions from the Tribunal, the claimant stated that some months prior to August 2006, he had received a written warning for an unauthorised absence from site. The claimant did not appeal the decision of the foreman to anyone else in the company and he received no indication that he could appeal the decision.

Determination:

The Tribunal carefully considered the evidence adduced at the hearing. The Tribunal noted that as a security officer the claimant was being paid less than the minimum wage and less than the appropriate wage for an experienced security worker. The Tribunal also noted that the claimant had previously received a written warning for an unauthorised absence from site prior to the incident on the 28 August 2006. The claimant did not avail of a process of appeal. The Tribunal finds that the claimant was unfairly dismissed. The Tribunal also finds that the claimant contributed to this dismissal. The Tribunal awards the claimant €3,500.00 for his successful claim under the Unfair Dismissal Acts, 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)