EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:

CASE NO.

Employee UD1290/2006

RP656/2006 MN851/2006

against Employer

under

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

I certify that the Tribunal (Division of Tribunal)

Chairman: Ms. K. T. O' Mahony B.L.

Members: Mr. G. Phelan Mr. T. Kennelly

heard this claim at Limerick on 12th February 2008

Representation:

Claimant: Mr. Darach McCarthy, Ted McCarthy, B.C.L., Solicitor, Wyvern House, 2 Newenham Street, Limerick

Respondent: Lorcan Connolly BL, C/o The law Library, Forecourts, Dublin 2

The determination of the Tribunal was as follows:-

The respondent's representative sought an adjournment on the grounds that his client was unable to attend the hearing because one of his drivers had been involved in a road traffic accident earlier that morning.

The Tribunal refused the respondent's representative's application on the grounds that: the accident was of a minor nature; the respondent himself had not been involved in the accident; the hearing was at 2.30pm in the afternoon and the accident had occurred, about seven hours earlier, within a short distance from the venue where the hearing was taking place; and finally, the dismissal hadtaken place over sixteen months previously in September 2006.

The respondent had not lodged an appearance (Form T2) in this case.

The Evidence

The claimant worked as a truck driver with the respondent from January 2003 to September 2006. His pay was $\notin 645.00$ gross per week. He had a good relationship with his employer and had not received any complaints about his work.

The claimant was getting married in early September 2006. He was due to work 28-30 August 2006 and to begin a month's holidays on Thursday, 31 August. His friend died on 27/28 August and the claimant sent a text to the respondent to the effect that he would not be at work from 28 to 30 August 2006. Following his return from his honeymoon, at the request of a colleague he called tohis house where his colleague gave him an envelope. The envelope contained a letter of dismissaldated 29 September 2006 from the respondent, a cheque for two weeks wages, and another letterdated 17 October 2005 from the Operations Manager of a business to which the claimant made deliveries complaining about the claimant. In the letter of complaint that had been made against theclaimant. The claimant had not been informed about the letter, or the complaint, in the interveningyear.

The claimant got his P45 through the offices of the Department of Social and Family Affairs (formerly Social Welfare). He had never received a P60 from the respondent. The first time he saw P60s was when the respondent's representative produced them at the hearing before the Tribunal. The claimant accepted that he had received two weeks pay with his letter of dismissal.

Determination:

As the respondent did not attend the hearing to show that there were any grounds under subsection (4), or any other substantial grounds under subsection (6) of section 6 of the unfair Dismissals Act 1977 justifying the dismissal, the Tribunal applies subsection (1) of the said section 6 and deems the dismissal unfair. It awards the claimant the sum of \in 8,800.00 under the Unfair Dismissals Acts 1973 to 2001.

The claimant received two weeks pay with his letter of dismissal. Accordingly, the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, is dismissed.

As there was no evidence of a redundancy situation the appeal under the Redundancy Payments Acts, 1967 to 2003 is dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) ___

(CHAIRMAN)