

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
UD610/2007
MN460/2007

against

Employer

under

**UNFAIR DISMISSALS ACTS, 1977 TO 2001
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. N. O'Carroll-Kelly BL

Members: Mr. D. Winston
Mr. J. Moore

heard these claims in Drogheda on 6 March 2008

Representation:

Claimant(s):
Mr. John McDonough,
McDonough, Matthews & Breen, Solicitors,
Distillery House, Distillery Lane, Dundalk,
Co. Louth

Respondent(s):
Mr. David O'Riordan,
Sherwin O'Riordan, Solicitors,
74 Pembroke Road, Dublin 4

The determination of the Tribunal was as follows:-

This case was scheduled for hearing at 10.30 a.m. on Thursday 6 March 2008. At the beginning of the said hearing the claimant's representative told the Tribunal that the claimant had phoned his firm at 9.30 a.m. that very day, had told another solicitor with the firm that he was still in Latvia, had asked how his case was going and had said that he had not known that his case was to be heard that day.

The claimant's representative said that his firm had had an Irish address for the claimant and two

phone numbers including a mobile number and a number in Latvia. The representative said that his firm had left a message in Latvia. However, the claimant had said that he had no notice of the case being heard on 6 March 2008 and that he wanted to go ahead with his case. The representative said that he wanted the case to be heard on another occasion.

Asked if it had been a coincidence that the claimant had happened to phone on the very day that his case was to be heard, the claimant's representative said that the claimant had got notice from the firm three times (or by three different methods) but that the firm had never had direct contact with the claimant by phone. The representative said that he did not know when the claimant had gone back to Latvia.

The respondent's representative said that he had nine witnesses and an accountant on standby. He added that he had written to the claimant's solicitors about loss to no avail and that he was not surprised that the claimant, who was the principal in a business in Latvia, had returned to that country.

When the Tribunal asked if it had been checked that the phone numbers for the claimant were correct it was told that an e-mail had been sent to the claimant and that it had been checked that this was the e-mail address.

Determination:

After conferring on what had been said at the hearing, the Tribunal was satisfied that the claimant had known that the case was to be heard on 6 March 2008 and that he had got an e-mail notifying him. On that basis, the Tribunal strikes out the claimant's claims under the Unfair Dismissals Acts, 1977 to 2001, and under the Minimum Notice and Terms of Employment Acts, 1973 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)