

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.MN59/2007

against
Employer

under

MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr J Fahy

Members: Mr B O'Carroll
Ms H Henry

heard this claim at Galway on 1st April 2008

Representation:

Claimant: Mr. Aidan Lyons, Regional Organiser, Ucatt,
Ballyrush, Castlebaldwin, Co. Sligo

Respondent: Mr. Daragh Feeney, Brian Doherty & Co., Solicitors,
Seville House, New Dock Street, Galway

The decision of the Tribunal was as follows:

Claimant's Case:

The claimant was employed as a carpenter for the respondent company for seventeen and a half years from 1st December 1989 until 13th September 2006. On 13th September 2006 the claimant received a phone call from the Managing Director (MD) of the company who told him that, as things were getting quiet, there was no point coming in the following morning. MD told the claimant that he should come into the office on Friday. During a different job in Spiddal, a few months previously, MD had spoken to the claimant about not being able to guarantee continuity of employment for him after the job in Ballymoneen road was over. No written notice was given and no specific date was mentioned. The claimant couldn't recall if he had asked if that meant he would get a redundancy payment. He wasn't concerned about the conversation as there had been periods in his employment where he had been told to stay at home until things got busier. Although this had not happened in the previous three or four years, he thought it would be the same this time. He believed that he would continue to be employed at another site in Oranmore or the Supermac's site. The claimant did not accept that the conversation in Spiddal constituted his notice of termination. He had a disagreement with MD when he went to the office and only went back the following week to sign for his redundancy payment.

Respondent's Case:

The Managing Director (MD) of the respondent company had been with the company for four or five years. He realised, during the job at Ballymoneen road, that there might not be any further work for the claimant once that job was completed. He spoke to the claimant and another carpenter and told them that when the Ballymoneen road job was over there would be no more work. He had confirmed to the claimant, when he asked, that it would mean that he would get a redundancy payment. MD had checked with the office how much notice the claimant was entitled to and was satisfied that he had given eight weeks notice of termination. The respondent didn't give the notice in writing as he preferred to do business face-to-face. The other sites did not require carpenters until a much later stage. On the Friday, when the claimant came to collect his redundancy payment, the claimant had complained to him about the manner in which notice had been given and left the office. The claimant returned the following Monday and apologised to MD and said it was a misunderstanding. MD had not responded to letters from the claimant's union representative as he didn't believe it was necessary to deal with the union as he preferred to deal face-to-face with his employees. MD had had no meetings with the union since becoming MD four or five years previous.

Determination:

The Tribunal heard the evidence of the claimant and the respondent. There was a conflict of evidence from the parties. The Tribunal prefers the evidence of the claimant and, therefore, the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 succeeds. Accordingly, the Tribunal awards the claimant €7,140.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)