

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD971/2007

Against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms N. O'Carroll-Kelly B L

Members: Mr F. Moloney
Mr J. Dorney

heard this claim at Wicklow on 23rd April 2008

Representation:

Claimant : Ms. Rosemary Mallon B L instructed by
Mr. Marcin Szulc, Maguire McClafferty, Solicitors,
8 Ontario Terrace, Portobello Bridge, Dublin 6

Respondent : No representation listed

The determination of the Tribunal was as follows:

The Tribunal is satisfied that the respondent was properly notified of this hearing.
Neither the respondent nor a representative on its behalf appeared for the hearing.

Claimant's Case

The claimant commenced employment with the respondent in April 2007. She was not issued with a contract of employment. Her work involved general duties such as housekeeping, opening and closing the premises, and cleaning. In early June 2007 the witness learned of her pregnancy and when the manager of the respondent became aware of this shortly afterwards he commented adversely on the claimant's changed circumstances. Up to that time the claimant had received no complaints about her work.

On 17 August 2007 the manager approached the claimant complaining about the cleanliness of the premises and told her that since her pregnancy she had become lazy in her work. He also accused her of picking her nose without any attempt to establish whether that was true. An argument ensued

between the claimant and the manger in which the manager told her “to get the fuck out”. She subsequently received her P45 the following month. Apart from the claimant the manager also complained to another member of staff about the cleanliness of the premises but did not dismiss that male employee.

The claimant who is a foreign nation gave birth on 5 March 2008 but had no entitlement to maternity benefits due to the brevity of her employment with the respondent.

A former working colleague of the claimant said she was present on 17 August on the premises and heard the exchanges between the claimant and the manager. She confirmed the comments made by that manager about the claimant’s pregnancy and added that the other relevant employee was not dismissed.

Respondent’s Case

No adduced evidence.

Determination

Having heard the uncontradicated evidence and submissions of this case the Tribunal is satisfied that the claimant’s dismissal by the respondent was due to her pregnancy. The dismissal is therefore unfair.

Accordingly, the Tribunal awards her €14,470.00 as compensation under the Unfair Dismissal Acts, 1977 to 2001. That award reflects the claimant’s loss of earnings and maternity benefits due to her unfair dismissal.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

