

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD67/2008, MN53/2008
WT37/2008

Against

Employer

Under

UNFAIR DISMISSALS ACTS, 1977 TO 2001
MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mrs M. Quinlan

Members: Mr J. Browne
Mr N. Broughall

heard this claim at Wicklow on 7th May 2008

Representation:

Claimant : Mr Frank Semple, 3/A The Boulevard, Quinsboro Road, Bray, Co. Wicklow

Respondent : Sean O Ceallaigh & Co, Solicitors, The Old Bank, Phibsborough, Dublin 7

The determination of the Tribunal was as follows:

Claimant's Case

The claimant commenced employment with the respondent in April 2006. He worked for an agreed take home weekly wage and did not receive pay slips or a contract of employment. His main job with this sole trader was that of a window fitter. His employment was terminated in late July 2007 when the respondent encountered financial difficulties. He was told that this situation "would be sorted" within two to three weeks. Subsequent to that announcement the employer informed him that his job was gone.

Respondent's Case

The owner of this establishment said the entity involved itself in the fitting of doors, windows, and conservatories to residential premises. As a result of an action from the revenue commissioners on his business in July 2007 the witness was unable to access funds to operate his business, which included paying the claimant. He accepted that the claimant's employment finished without much notice and that he did not offer him further work. The owner also admitted not furnishing a contract of employment to the claimant and rarely giving him payslips. However, he insisted that he did not dismiss the claimant and his colleagues but accepted that he "let them go".

Determination

No regard to employment legislation was evident during the course of this hearing. Neither the claimant nor his former employer even seemed aware of this legislation. The claimant was clearly dismissed by the actions of the respondent and in this case this rendered it unfair. Accordingly, his claim under the Unfair Dismissals Acts, 1977 to 2001 succeeds and the claimant is awarded €3750.00 as compensation under those Acts.

The appeal under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 is allowed and the appellant is awarded €450.00 as compensation for one week's notice.

The appeal under the Organisation of Working Time Act, 1997 was withdrawn during the hearing

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

