

EMPLOYMENT APPEALS TRIBUNAL

CLAIM(S) OF:
Employee

CASE NO.
UD189/2008

Against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr M. O'Connell B.L.

Members: Mr. A. O'Mara
Mr. J. Dorney

heard this claim at Dublin on 30th May 2008

Representation:

Claimant(s) :

Ms. Tracey Ennis-Faherty instructed by Mr. John Browne, Hussey Fraser, Solicitors,
17 Northumberland Road, Dublin 4

Respondent(s) :

In Person

The determination of the Tribunal was as follows:-

Respondent's Case

The witness for the respondent in sworn evidence confirmed that he was a director of the company. His partner in the company was originally dealing with this matter but had suffered an illness and was now unable to do so. Accordingly it was left to him to present the case. The witness gave evidence that, on the 13th December 2007 he received a phone call from the financial controller of one of his customers. The financial controller requested that he view CCTV footage of a delivery of goods that was made to one of their stores.

In reply to questioning by the chair the witness replied that neither the CCTV footage nor the financial controller were present at the hearing and that his case was reliant on this evidence.

This evidence was ruled inadmissible by the Tribunal as it was considered heresay.

Claimant's Case

The claimant gave evidence that he was employed by the respondent from October 1999 until the 13th December 2007. His net pay was €550 per week and he was unaware of his gross pay. He has been unemployed since the 13th December 2007 and has tried unsuccessfully to secure employment. He is currently attending FAS and is hoping to acquire a PSV licence. He received a P60 each year and has applied to the tax office for a tax clearing certificate but has not received one to date.

Determination

The Tribunal was given no evidence in justification of the dismissal of the claimant from his employment on the 13th December 2007. The respondent sought to raise evidence of CCTV footage without actually producing same. In these circumstances the Tribunal came to the view that the dismissal could not be supported by any admissible evidence of wrongdoing. Accordingly the respondent failed to discharge the onus which was on it. In the circumstances, the Tribunal deems the dismissal to have been unfair.

In relation to the loss of earnings the Tribunal heard evidence that the claimant had made several efforts to get employment. The respondent claimed that the market for drivers was still good despite the downturn and he could not understand how the claimant had failed to get employment. The claimant is currently undergoing training to acquire a PSV licence.

The Tribunal awards the claimant the sum of €7,500.00 under the Unfair Dismissal Acts 1977 to 2001.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

