

## EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:  
Employee

CASE NO.  
UD346/2008

Against

Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mr B. Garvey B L

Members: Mr A. O'Mara  
Mr F. Barry

heard this claim at Dublin on 14th July 2008

### Representation:

Claimant : In person

Respondent: Mr. Paul Monaghan, Friel Stafford, Corporate Recovery,  
44 Fitzwilliam Place, Dublin 2

The determination of the Tribunal was as follows:

At the outset of this hearing the Tribunal was informed that the respondent was in liquidation. Mr Paul Monaghan from the liquidator's office said that there were no witnesses present at the hearing to present the respondent's case.

### Claimant's Case

Up to October 2007 the claimant had been employed by another company some distance from her residence. Due to commuting and other reasons she decided to voluntarily resign that employment and in the course of her notice period secured work as a sales, marketing and administrative person with the respondent. The respondent offered her that position on a three-month probationary basis provided she reached unspecified targets within that time. She commenced employment on 7 November 2007. The claimant's remuneration was to consist of an annual salary and bonus payments. Those payments were withdrawn within three weeks of her commencement and the scheduled weekly meetings on sales and marketing did not always materialise.

The two directors of the company differed in their views on how the claimant was to perform her

duties. The claimant did not therefore know the nature of her work until it started and by the fourth week of her employment she was tasked with the job of delivering leaflets on a door-to -door basis. That work involved carrying a bag containing weighty material.

By the end of October 2007 the claimant realised she was pregnant. She opted not to share that information with her new employer until 6 December when she “discovered” her pregnancy. That discovery coincided with a visit to her doctor who told her not to lift any material. The director who received that news appeared shocked and the following day that director told her that her job “was finished”. While he did not mention her work performance he commented that not enough sales had been made and that the company could no longer afford to keep her on. The claimant understood that her sales were not subject to the attainment of targets until January 2008.

### **Respondent’s Case**

No evidence adduced

### **Determination**

Having heard the uncontroverted evidence of the claimant and in the absence of any evidence from the respondent the Tribunal finds that the dismissal was unfair. The respondent’s reported justification for her dismissal lacked substance. That decision came in the immediate wake of the claimant’s announcement that she was pregnant and the Tribunal is satisfied that this development wholly or mainly and significantly contributed to her dismissal. Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2001 succeeds and the claimant is awarded €3000.00 as compensation under those Acts.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)

