

## EMPLOYMENT APPEALS TRIBUNAL

Claims of:

Employee

CASE NO.  
UD1071/2007  
MN828/2007

against:

Employer

under

### UNFAIR DISMISSALS ACTS, 1977 TO 2001 MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms. R. O'Flynn

Members: Mr. D. Hegarty  
Mr. D. McEvoy

heard this appeal at Cork on 3rd July 2008.

#### **Representation:**

Appellant: Mr. David Waters of Sullivan Waters & Co., Solicitors, 19 West End,  
Mallow, Co. Cork

Respondent: Mr. Philip Comyn of O'Connor Dudley Solicitors, West End,  
Mallow, Co. Cork

The determination of the Tribunal was as follows:

#### **Claimant's Case**

The claimant gave evidence. She started working for the respondent in March 2007. At first she worked 3 days a week. Later, sometime in April 2007, she worked a four-day week.

Sometime at the end of June 2007, she told her colleague and her employer that she was pregnant. Everything was fine for one week. In early July 2007, her employer began finding fault with her work and there were complaints about work she had done months before. She wanted to go home

and asked for holidays. When she changed the dates of her holidays her employer was annoyed. She received 2 weeks paid holidays.

In September 2007, her employer told her that once her colleague returned from holidays there would be no more work for her. She was let go in October 2007. She was unable to get another job then because she was heavily pregnant.

### **Respondent's Case**

The fact of dismissal was not in dispute.

The office manager and director of the respondent gave evidence. She trained the claimant to do the job. In July 2007, the claimant wanted holidays. She was entitled to five days holidays, however the office manager agreed to her taking 2 weeks off and the claimant was paid for same. Just before the claimant was due to go on holidays she informed the office manager that she had changed the dates of her holidays. The office manager was annoyed because it inconvenienced her. The claimant had a week's unpaid holiday in late August 2007.

In September 2007 there was a significant fall off in business. There was not enough work for the three people in the office. Two other people were also let go. The claimant was not replaced. The office manager felt sorry to let the claimant go, but she could not justify keeping her in employment.

### **Determination**

Having heard the evidence, the Tribunal is satisfied that the claimant was informed on or about the 24<sup>th</sup> September 2007 that her employment would be terminated, due to a reduced workload in the office. The claimant's employment ended on 12<sup>th</sup> October 2007. Accordingly, the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001 fails.

The Tribunal finds that the claimant has not discharged the onus of proof in this case. The Tribunal is satisfied that the claimant was not dismissed wholly or mainly for reasons of pregnancy or matters connected therewith, pursuant to section 6(2)(f) of the Unfair Dismissals Act 1977-2001.

Accordingly, the claim under the Unfair Dismissals Acts, 1977 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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