

EMPLOYMENT APPEALS TRIBUNAL

CLAIMS OF:

CASE NO.

Employee

UD759/2007
RP400/2007
WT259/2007
MN607/2007

against

Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001
ORGANISATION OF WORKING TIME ACT, 1997
REDUNDANCY PAYMENTS ACTS, 1967 TO 2003
UNFAIR DISMISSALS ACTS, 1977 TO 2001**

I certify that the Tribunal
(Division of Tribunal)

Chairman: Mr L. Ó Catháin

Members: Mr D. Hegarty
Ms. P. Doyle

heard this claim at Cork on 7th April 2008

Representation:

Claimant :

Ms Jane Anne Rothwell B.L., instructed by Ms Freda Brennan,
Ahern Roberts O'Rourke Williams & Partners Solicitors,
The Old Rectory, Carrigaline, Co. Cork

Respondent :

Not present or represented

The determination of the Tribunal was as follows:-

At the outset counsel for the claimant withdrew the claim under the Redundancy Payments Acts, 1967 to 2003

Claimant's case:

The claimant in his evidence told the Tribunal that he commenced his employment as a carpenter with the respondent in September 2004. On 4th May 2007 while working on a site in Blarney he was informed by the foreman for the main contractor on the site that there was no more work for him. On 8th May when he rang the respondent he was told there was no work for him and to go and look for work elsewhere. The Department of Social Community and Family Affairs told the claimant he would need a letter from his employer for the purpose of obtaining Social Welfare payments and he received this letter around 10th May 2007. After four weeks he rang the respondent and he was again told there was no work for him. On 11th June 2007 he received a letter asking him to report for work in Castletownbere the following day. It was not possible for the claimant to go to Castletownbere as it was about seventy five miles from his home. There was no discussion in relation to accommodation or travel allowance.

He then contacted his solicitor who sent letter dated 29th June 2007 to the respondent seeking clarification as to whether this was a genuine redundancy. No reply was received despite reminders being issued. The company is still trading and there are in the region of one hundred employees working for the respondent. The claimant outlined details of his loss of earnings since his dismissal.

In answer to questions from Tribunal members the claimant stated that at the date of his dismissal the respondent had four or five sites in or around Cork City.

Determination:

The Tribunal accepts that the letter of 4th May 2007 was termination of employment for the claimant. The Tribunal is of the view that when the claimant got the offer of work in Castletownbere, he should have contacted the employer to check out the terms on offer in relation to accommodation allowance and travel. That opportunity should have been availed of.

The Tribunal awards the claimant the sum of €27,000.00 under the Unfair Dismissals Acts, 1977 to 2001. It also awards the sum of €1,680.00 under the Minimum Notice and Terms of employment Acts, 1973 to 2001 and €729.12 under the Organisation of Working Time Act, 1997. The claim under the Redundancy Payments Acts, 1967 to 2003 was withdrawn.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)

