

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM OF:

CASE NO.

Employee

MN837/2007

against

Employer

under

**MINIMUM NOTICE AND TERMS OF EMPLOYMENT ACTS, 1973 TO 2001**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Mrs. M. Quinlan

Members: Mr. C. Ormond  
Mr. F. Barry

heard this claim at Naas on 1st May 2008

**Representation:**

Claimant: In person

Respondent: Ms. Niamh McHugh BL

Instructed by: John Duffy & Co., Solicitors, Main Street, Monasterevan, Co. Kildare

The decision of the Tribunal was as follows:

Claimant's evidence:

The Claimant stated that he started work in January 2007. All went well at first. He worked there as a Joiner. He had an accident at home on 26 May 2007, when he fell downstairs and "broke his head"(sic). He was very ill for some time. The company told him that they looked forward to seeing him back at work. However his Irish doctor initially told him that he wouldn't be able go back to work for 6 years. His doctor in Latvia told him that he could return to work. This was a few weeks before he got his P45, which he received on 2 November 2007. His employer had said to him that he needed a doctor in Ireland to say when he could go back to work. He spoke to a solicitor, but could not afford him, so he decided to put a claim in to the EAT. He had looked forward to going back to work, but when he received his P45, he felt destroyed. He has been unable to get a new job. He felt that other employers may have contacted M&C and been given a bad report by them about

him. When told that this was supposition on his part, he agreed, but that had been his perception. He believed that the company knew they had done the wrong thing, but, as not being Irish, they thought he would not complain. He agreed that he ceased work in May when the accident happened, and that he received his notice of termination on 2 November 2007. He has had no employment since he left M&C. He got a letter from Beaumont hospital saying he could return to work on 26 November. He had submitted certificates to the company up to 29 October 2007 and got a P45 a few days later. The company asked him for a final cert, and he agreed to get one. By the time of the accident, he was not handling heavy machinery on his own, but had a colleague helping him.

**Respondent's case:**

They submitted that Minimum Notice was not due to the Claimant, as section 12 of the Act disallows it due to his inability to return to work. He was let go due to the slowdown in business. The letter from Beaumont Hospital stated that he could return to work but would not be able to handle heavy machinery, yet this is what he had done before the accident.

MM's evidence (Company employee):

She disputed the evidence of the Claimant. She said that his girlfriend informed them of the accident, and eventually he started coming in with medical certificates. They were delighted to see him back. In the last conversation between them, she did not ask him for a final cert. Business had gone quiet, and they had to let other staff go. They had to terminate his employment due to a slowdown. She did not see him since the Rights Commissioner's hearing regarding the contract of employment. She accepted that he had told her about seeing the Latvian doctor, but she did not know about him seeing the doctor in Beaumont Hospital. Before the accident he had been handling heavy machinery.

**Determination:**

Having heard the evidence from both sides, and loss not having been established, the Tribunal finds that the claim under the Minimum Notice and Terms of Employment Acts, 1973 to 2001, fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

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

