

EMPLOYMENT APPEALS TRIBUNAL

CLAIM OF:
Employee

CASE NO.
UD476/2008

against

Employer

under

UNFAIR DISMISSALS ACTS, 1977 TO 2001

I certify that the Tribunal
(Division of Tribunal)

Chairman: Ms. M. Levey BL

Members: Mr. E. Handley
Mr. B. Byrne

heard this claim in Dublin on 28th August 2008

Representation:

Claimants: In person

Respondent:

Mr. David Keane, IBEC, Confederation House, 84/86 Lower Baggot Street,
Dublin 2.

The determination of the Tribunal was as follows:-

Determination

The issue to be decided was whether the Tribunal had jurisdiction to hear the case. The claimant had less than 6 weeks service when his employment ended on 12th July 2007. He subsequently referred a number of issues to the Rights Commissioner under the following Acts

- National Minimum Wage Act, 2000
- Organisation of Working Time Act, 1997
- Payment of Wages Act, 1991
- Unfair Dismissals Acts, 1977 to 2001.

These issues were the subjects of a Rights Commissioner hearing on 18th March 2008. Recommendations issued in respect of the first three. The Tribunal noted that the three recommendations were accepted by both parties and were not appealed.

The claim under the Unfair Dismissals Acts was deferred at the claimant's request. The hearing of this claim was due to resume on 1st July 2008. However in the intervening period the claimant lodged the claim with the Tribunal. The claim was dated 12th May 2008. On 21st May 2008 the claimant was notified that the claim was being processed by the Tribunal. He received a letter dated 26th May 2008 from the Tribunal acknowledging his application dated 12th May 2008.

Determination

The claimant maintained that he was dismissed because he was exercising his rights under Section 36 (1) of the National Minimum Wages Act, 2000. In his own evidence he stated that he had resigned from his employment on 6th July 2008. He also said that he had referred the issues in dispute (including the claim under the National Minimum Wage Act) to the Rights Commissioner on 7th July 2008. His employers were not aware of this when they accepted his resignation. Thus there is no basis for his contention that he was dismissed under the conditions specified in Section 36 (1) of the National Minimum Wage Act, 2000. For this reason and also because the application to the Tribunal was outside the six months time and because the Rights commissioner did not issue a decision on the matter, the Tribunal finds that it has no jurisdiction to hear this claim. The claim under the Unfair Dismissals Acts, 1977 to 2001 fails.

Sealed with the Seal of the

Employment Appeals Tribunal

This _____

(Sgd.) _____
(CHAIRMAN)